

FORCED LABOUR IN CHINA: A TOOL TO OPPRESS ETHNIC MINORITIES

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INTRODUCTION

In today's world, where the right to be free from slavery has been deemed a non-derogable human right, all forms of slavery are expected to be abolished. Unfortunately, modern slavery still exists, and there are around 50 million people today still stuck in slavery.¹ There are several types of modern slavery, such as forced labour and human trafficking.² This report will focus on state-imposed forced labour, highlighting China's utilisation of forced labour as a tool to oppress ethnic minorities.

Forced labour is a type of work performed involuntarily. Workers subjected to forced labour are under the threat of a penalty such as heavy fines, torture, or even death which drives them to work in unbearable conditions. According to the International Labour Organisation (ILO), three elements need to be met for labour to be considered forced labour: (i) work or service, (ii) menace of any penalty, and (iii) involuntariness.³ The first element pertains to any type of work in any activity, industry, or sector. The second element refers to a broad range of penalties to prompt them to work. The third element refers to the lack of free and informed consent from a worker to take his or her job, as well as the freedom to leave at any time.

Forced labour persists because the perpetrators prey on poverty and discrimination. In this case, perpetrators can be private or governmental bodies. State-imposed forced labour happens in several countries for reasons, such as to mobilise labour for economic development, to punish political dissents, and to discriminate based on religion and/or ethnicity.⁴ In 2022, there were still about four million people worldwide trapped in state-imposed forced labour.⁵

In China, the poverty alleviation program allows producers to utilise forced labour. Around 23 manufacturing sites indicated that the use of state-imposed forced labour might be more widespread and include vulnerable groups such as political and ethnic minorities.⁶ Politically repressed minorities are considered to be at a high risk of exploitation because they are specifically targeted in the program to establish more political control and reeducation.⁷ Meanwhile, ethnic minorities such as the Uyghurs, other Turkic minorities, and Tibetans are at very high risk as they are already facing systematic political repression and coercive behaviour from the nation. Furthermore, the Uyghur minority as well as other ethnic minorities in China represent and practise Islam and/or other minority religions (such as folk

¹ 'Global Estimates of Modern Slavery' (*Walk Free*, 2022) <https://cdn.walkfree.org/content/uploads/2022/09/12142341/GEMS-2022_Report_EN_V8.pdf> accessed 13 March 2024.

² *ibid.*

³ 'What are forced labour, modern slavery and human trafficking?' (*ILO*, 2024) <<https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>> accessed 13 March 2024.

⁴ 'State-imposed forced labour' (*AntiSlavery*, 2022) <<https://www.antislavery.org/what-we-do/state-imposed-forced-labour/>> accessed 15 March 2024.

⁵ *ibid* (n 1).

⁶ 'State-Imposed Forced Labour. Swedish Buyers' Monitoring of Electronic Supply Chains' (*Adda*, 2021) <<https://www.adda.se/contentassets/709146ed8bd24cb58412d8614db43995/state-imposed-forced-labor-in-china.pdf>> 18 accessed 16 March 2024.

⁷ *ibid.*

and various other banned religions), which are different from the mainstream ideology of the CCP of being an atheist and thereby ethnic minorities will be subjected to re-education to remove their religious traditions and beliefs.⁸

Forced labour in manufacturing sites is in the guise of any internment terminology, such as “Education Training Centers” or “Legal Education Centers”.⁹ Manufacturing sites find it attractive to take advantage of forced labour because the government helps to fund their operations through the poverty alleviation program. This makes China susceptible to the international spotlight for forced labour.

⁸ Eleanor Albert and Lindsay Maizland, ‘Religion in China’ (*Council on Foreign Relations*, 25 September 2020) <<https://www.cfr.org/backgrounder/religion-china>> accessed 20 March 2024.

⁹ *ibid* 17.

1. FORCED LABOUR

1.1. RELEVANT LEGISLATION

1.1.1. International

1.1.1.1. Slavery Convention (1926) and the UN Supplementary Convention on the Abolition of Slavery (1956)

The Slavery Convention and the Supplementary Convention, adopted in 1926 and 1956, respectively, are the earliest conventions to address the topic of slavery. In the 1926 Convention, slave and the slave trade are defined in Article 1.¹⁰ The 1956 Supplementary Convention expanded on the practice of debt bondage, serfdom, forced marriage, and child exploitation.¹¹

China is a signatory state to the 1926 Slavery Convention, whereas the Republic of China signed the 1956 Supplementary Convention, and thus, does not apply to the People's Republic of China.

1.1.1.2. ILO Conventions – Forced Labour Convention No. 29; Protocol (2014) on Forced Labour No. 29; the Abolition of Forced Labour Convention No. 105; and the Forced Labour Recommendation No. 203

Certain ILO conventions aim to guarantee all human beings freedom from all kinds of forced labour. Conventions No. 29 and No. 105 supplement each other and their simultaneous application should eliminate all forced and compulsory labour.

¹⁰ Slavery Convention (adopted 25 September 1926, entered into force 9 March 1927) 60 LNTS 254, Article 1.

¹¹ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (adopted 7 September 1956, entered into force 30 April 1957) 266 UNTS 3.

Convention No. 29 lays down the legal definition of forced labour in Article 2(1), which consists of the three elements mentioned in the introduction.¹² Furthermore, this Convention also provides exceptions to forced labour.¹³ It includes compulsory military service, normal civic obligations (e.g. jury duty), prison labour, emergencies, and minor communal service.

In illegally exacting forced labour, the punishment is a penal offence.¹⁴ Moreover, the ratifying Member States are under the obligation to ensure the penalties carried out by law are strictly enforced and adequate.¹⁵

Convention No. 105 reaffirms the former convention and further highlights specific categories of forced labour. In Article 1, the Convention requires the Member States to abolish forced labour as a means of political oppression, education, or punishment for a different view, means of discrimination, to mobilise economic development, as a means of labour discipline, or as a punishment for having to participate in strikes.¹⁶

The Protocol and Recommendation focus on measures to eliminate forced labour, where the ILO and Member States should address the root causes, commit to protective actions, provide remedies, and ensure proper enforcement.

China has recently ratified the two conventions in 2022.¹⁷ However, China did not sign the 2014 Protocol. This means that China is obliged by the Conventions to eliminate all forms of forced labour in its territory. Nevertheless, various sources alleged that China is falling short of this obligation.

1.1.1.3. Universal Declaration of Human Rights (UDHR) and International Covenant of Civil and Political Rights (ICCPR)

While not a legally binding document, the UDHR is important in highlighting state practice and *opinio juris*.¹⁸ In Article 4 of the UDHR, slavery or servitude, as well as the slave trade are explicitly banned.¹⁹ China is a signatory to and an author of the UDHR.

¹² Forced Labour in China: A Tool for Oppressing Ethnic Minorities 2.

¹³ Forced Labour Convention No. 29 (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, Article 2(2).

¹⁴ *ibid* Article 25.

¹⁵ *ibid*.

¹⁶ Abolition of Forced Labour Convention No. 105 (adopted 25 June 1957, entered into force 17 January 1959) 320 UNTS 291, Article 1.

¹⁷ ILO Press Release, 'China ratifies the two ILO Fundamental Conventions on forced labour' (ILO, 2022) <https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_853575/lang-en/index.htm#:~:text=This%20April%2C%20the%2034th%20session,China%20consistently%20opposes%20forced%20labour> accessed 26 March 2024.

¹⁸ *Opinio juris* (*opinio juris sive necessitatis*) is the belief that the reason why an action is carried out is because it is a legal obligation. State practice and *opinio juris* are the factors required for an international law obligation to crystallise into customary international law.

¹⁹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR).

The ICCPR is one of the most renowned legally binding international human rights treaties.²⁰ The ICCPR also has a prohibition of slavery with similar wording to the UDHR in Article 8. China has signed the ICCPR but has not ratified it.

1.1.1.4. International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR protects the freedom to work freely. Articles 6 and 7 of the ICESCR recognise the right to work wherever he or she chooses and accepts to work, as well as the enjoyment of just and favourable work conditions.²¹ These articles aim to protect citizens from being subjected to involuntary servitude which normally comes with poor working conditions. Additionally, China has ratified the ICESCR in 2001.

1.1.1.5. Palermo Protocol

The Palermo Protocol is also known as the “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children”, supplementing the United Nations Convention against Transnational Organized Crime. The main focus of this protocol is to prevent and combat human trafficking. It offers protection to victims of trafficking, as well as preventative measures. China has ratified this protocol with a reservation to Article 15(2) – concerning dispute settlement mechanisms.

1.1.2. *Domestic*

In China, several laws protect its citizens from being the subject of forced labour. The Labour Contract Law, through Article 88, prohibits forcing an employee to work through the use of violence, coercion, or unlawful restriction of personal freedom. In addition, Article 240 of the Criminal Law covers the prohibition of abducting and trafficking of women and children.

1.2. ECONOMIC ACTIVITIES AND FORMS OF FORCED LABOUR UTILISED

²⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 8.

²¹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 933 UNTS 3 (ICESCR), Articles 6 and 7.

The economic activities where forced labour is most commonly involved include the manufacturing industry, which often entails heavy physical work and the assembly of certain products. Furthermore, forced labour can take different forms, which will be highlighted in connection to the economic activity used. The following will first set out the economic activities used within forced labour and then the different forms of forced labour used in China.

1.2.1. Economic Activities

The autonomous region of Xinjiang is known to be an industrial hub, where multiple companies are producing materials and products for suppliers.²² Moreover, it is the home of the Uyghur minority, largely subjected to forced labour.²³ Forced labour can be generally imposed by the state or private actors, however, most of the forced labour taking place in China is imposed by the state.²⁴

The first cluster of economic activities in China includes working in the production of materials across supply chains. Forced labour is utilised for the production of aluminium for cars, as indicated in a report published by Human Rights Watch.²⁵ Global car companies such as Tesla, Volkswagen, General Motors, and Toyota are using aluminium in their supply chains that could have been sourced through the use of forced labour.²⁶ However, the companies are not taking full accountability, nor conducting optimal due diligence to assess whether their supply chain uses forced labour in the production of its materials.²⁷ Concerning the production of aluminium, fossil fuel companies supply coal to producers of aluminium and make use of forced labourers provided through the labour transfer programme, in which the individuals are forced to relocate to urban or other rural areas to conduct involuntary work, as set by the Chinese government, to work in their coal mines.²⁸ Furthermore, the production of polysilicon— a material used for solar panels— is also susceptible to cases of forced labour.²⁹ This is known to be the case for other materials such as cotton, polyvinyl chloride and plastic.³⁰ The manufacturers are employing this involuntary workforce because the Chinese government is providing them incentives to do so.³¹ Such incentives can include subsidies offered to companies that train or hire former Uyghur detainees or subsidies for

²² ‘Asleep at the wheel: Car Companies: Complicity in Forced Labour in China’ (*Human Rights Watch*, 1 February 2024) <<https://www.hrw.org/report/2024/02/01/asleep-wheel/car-companies-complicity-forced-labor-china>> accessed 7 March 2024.

²³ Stuart Lau and Antonia Zimmermann, ‘Forced Labor Still Haunts China’s Xinjiang, report finds’ (*Politico*, 13 February 2024) <<https://www.politico.eu/article/forced-labor-still-haunts-chinese-region-of-xinjiang-report-finds/>> accessed 7 March 2024.

²⁴ ‘Modern Slavery in China’ (*Walk Free*) <<https://www.walkfree.org/global-slavery-index/country-studies/china/>> accessed 7 March 2024.

²⁵ ‘Asleep at the wheel: Car Companies: Complicity in Forced Labour in China’ (n 22).

²⁶ ‘China: Carmakers implicated in Uyghur forced Labour’ (*Human Rights Watch*, 1 February 2024) <<https://www.hrw.org/news/2024/02/01/china-carmakers-implicated-uyghur-forced-labor>> accessed 7 March 2024.

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ ‘Against Their Will: The Situation in Xinjiang’ (*Bureau of International Labour Affairs*, 2024) <<https://www.dol.gov/agencies/ilab/against-their-will-the-situation-in-xinjiang>> accessed 7 March 2024.

³⁰ ‘Modern Slavery in China’ (n 24).

³¹ *ibid.*

incentivising Chinese-owned companies to develop their operations and production centres around the so-called vocational training centres or re-education camps in Xinjiang.³² Additionally, the Chinese government has allowed companies within the region to provide less than the set minimum wage for the workers.³³

The second cluster of economic activity includes the production of certain goods and specific sectors which employ forced labour. As set out mainly in a report of the Bureau of International Labour Affairs, gloves, hair products, electronics, personal protective equipment, thread and yarn, textiles, and tomato-based products manufactured and assembled in China often entail the use of forced labour.³⁴ Moreover, the autonomous region of Tibet and the Tibetans are also subjected to forced labour in agriculture, construction, and security sectors.³⁵ The private sector uses forced labour in factories, brick kilns, the fishing industry, and in coal mines.³⁶

1.2.2. Forms of forced labour

Forced labour can present itself in many different forms, from traditional forced labour to modern slavery, as mentioned before. The Chinese Communist Party (CCP) is systematically oppressing and using widespread state-imposed forced labour towards the Uyghur and other Turkic and Muslim minorities alongside individuals from the Tibetan community.

Although the private sector participates on a narrower scope, it partakes through the discriminatory government practices which are presented as financial incentives. The Chinese government is offering such incentives to private actors to increase the use of ethnic minorities as forced labourers.³⁷ Involuntary labour is particularly prevalent within the Uyghur community, evidenced by restrictions on their freedom of movement and communication with the outside world, threats and physical violence, strict surveillance, and exclusion and isolation from the community and social life.³⁸

The first form of forced labour is human trafficking. It entails the recruitment, transportation, transfer, holding, or receipt of persons by using threat, force, or other forms of coercion, such as abusing the position of vulnerability, for the purpose of exploitation.³⁹ The Uyghur individuals are placed in a position of vulnerability as the Chinese government is creating an environment of ethnic discrimination through several practices and policies on the national

³² ‘Individual Case (CAS) - Discussion: 2022, Publication: 110th ILC session (2022)’ (ILO, 2022) <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13101:0::NO::P13101_COMMENT_ID:4058090> accessed 2 April 2024.

³³ *ibid.*

³⁴ ‘Modern Slavery in China’ (n 24).

³⁵ *ibid.*

³⁶ *ibid.*

³⁷ *ibid.*

³⁸ ‘Against Their Will: The Situation in Xinjiang’ (n 29); ‘What are forced labour, modern slavery and human trafficking?’ (n 3).

³⁹ ‘Guidance note on Forced Labour’ (European Bank for Reconstruction and Development, March 2023) <<https://www.ebrd.com/documents/admin/forced-labour.pdf>> 3 accessed 7 March 2024.

level. This can manifest as placing individuals of ethnic minorities at a disadvantage when seeking jobs, as they are often limited to a narrow scope of service-industry jobs in urban areas, while the rest of professions are reserved for Han-Chinese individuals.⁴⁰ Secondly, government practices such as ‘monolingual education’, focusing on Mandarin Chinese, leads to the extermination of the Uyghur culture and language as the education they receive is mostly in Mandarin Chinese.⁴¹ Thereby individuals of the Uyghur community do not understand what they are taught and consequently are at an educational disadvantage to the Han-Chinese.⁴² Furthermore, such has far-reaching implications for the marginalisation of the Uyghur community from the rest of the Chinese population, as access to administrative matters, judiciary, newspaper outlets and books, amongst others, are cut off from them due to a language barrier.⁴³ Consequently, human trafficking is taking place as the members of the Uyghur community are involuntarily transferred to other regions of China, by abusing their vulnerability of belonging to an ethnic minority, to be exploited for forced labour.⁴⁴

Secondly, bonded labour is a form of modern slavery, whereby a person is forced to conduct labour in order to pay off their debt. In many such cases, workers need to take loans from their employers due to finding themselves in a situation of financial precarity, and are required to pay recruitment fees, which will further become part of their debt.⁴⁵ Debt bondage is a very difficult situation to be in, as workers are paid little to no money, making any prospects of paying off their debt unlikely, as it is constantly increasing due to fees for food and accommodation.⁴⁶ Especially in the fishing industry, forced labour workers are required to pay recruitment fees to their employers and thereby sign debt contracts. Additionally, they receive no remuneration, resulting in their incapacity to service their debt, remaining forced to work indefinitely towards paying off the respective loans.⁴⁷

Thirdly, forced marriage, particularly amongst children, domestic servitude, and forced begging are all forms of modern slavery used by private actors and/or the government of China to oppress ethnic minorities.⁴⁸ Forced marriage entails that a person is forced to enter a marriage and is not able to leave on his or her own will.⁴⁹ Major problems with forced marriages are that they can lead to further exploitation, such as domestic servitude, sexual exploitation and forced labour.⁵⁰ Domestic servitude refers to the situation of a person conducting domestic work for another person. The worker is not allowed to leave the

⁴⁰ Ihram Tohti, ‘Present-Day Ethnic Problems in Xinjiang Uighur Autonomous Region: Overview and Recommendations’ (*ChinaChange.org*, 2015)

<https://xinjiangdocumentation.sites.olt.ubc.ca/files/2020/11/ilham-tohti_present-day-ethnic-problems-in-xinjiang-uighur-autonomous-region-overview-and-recommendations_complete-translation3.pdf> 5 accessed 2 April 2024.

⁴¹ *ibid* 10.

⁴² *ibid*.

⁴³ *ibid*.

⁴⁴ ‘Against Their Will: The Situation in Xinjiang’ (n 29).

⁴⁵ ‘What is Bonded Labour?’ (*Anti-Slavery International*, 2024) <<https://www.antislavery.org/slavery-today/bonded-labour/>> accessed 7 March 2024.

⁴⁶ *ibid*.

⁴⁷ ‘Against Their Will: The Situation in Xinjiang’ (n 29).

⁴⁸ ‘Forced Begging’ (*The Clewer Initiative*, 29 November 2021) <<https://theclewerinitiative.org/blog/forced-begging>> accessed 7 March 2024 ; ‘Modern Slavery in China’ (n 24); ‘What is Modern Slavery?’ (*Anti-Slavery International*, 2024) <<https://www.antislavery.org/slavery-today/modern-slavery/>> accessed 7 March 2024.

⁴⁹ *ibid*.

⁵⁰ *ibid*.

premises, faces physical violence and abuse, receives no cash or in-kind remuneration, such as food, and their contact with family is severely restricted.⁵¹ Lastly, forced begging is at the intersection between human trafficking and forced labour, occurring when someone forces another person to beg for money in a public setting. Financial gain resulting from this activity goes directly to the person that commissioned the begging, with signs of mental and physical abuse commonly present among those forced to beg.⁵²

The international agreements in place, of which China is a state party, prohibit forced labour and the different forms of such and urge States to eliminate the use of all forms of forced labour. Such obligations stem from the Palermo Protocol, the Forced Labour Convention, as well as the Abolition of Forced Labour Convention.⁵³

1.3. JUSTIFICATIONS FOR THE USE OF FORCED LABOUR

The Chinese government is depicting the current state of affairs in the region of Xinjiang very differently from the discouraging reality.⁵⁴ Under the regime of the Chinese Communist Party (CCP), the region of Xinjiang is facing strict controls and surveillance. Here, minority groups, such as the Uyghur, the Tibetan people, and others are faced with multiple human rights abuses. Among other abuses, individuals are subjected to forced labour, which the Chinese government is trying to justify by means of national schemes and policies. However, in reality, the justifications presented by China are not viable and act as a front for the government to oppress ethnic minorities through forced labour.

By mid-2020, an estimated amount of half a million individuals of the Uyghur minority and other ethnic minority groups have been arbitrarily detained by the Chinese government.⁵⁵ Upon their release from detention, the individuals are directed to “re-education” camps.⁵⁶ Forced labour is presented under the guise of re-education to remove opinions and thoughts of extremism from individuals belonging to ethnic minorities.

Additionally, a few terrorist attacks have surfaced from Uyghur extremist Muslim believers, such as the East Turkestan Islamic Movement, which was linked to Al-Qaeda. The Chinese government has been instrumentalising ideological indoctrination to eliminate religious

⁵¹ ‘What is Domestic Slavery?’ (*Anti-Slavery International*, 2024) <<https://www.antislavery.org/slavery-today/domestic-work-and-slavery/>> accessed 7 March 2024.

⁵² ‘Forced begging’ (n 48).

⁵³ Abolition of Forced Labour Convention No. 105 (n 14); Forced Labour Convention No. 29 (n 11); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 2237 UNTS 319 (Palermo Protocol).

⁵⁴ Maya Wang, ‘China’s ‘Beautiful Xinjiang’ Continues to Oppress Uighurs’ (*Human Rights Watch*, 13 September 2023) <<https://www.hrw.org/news/2023/09/13/chinas-beautiful-xinjiang-continues-oppress-uighurs>> accessed 7 March 2024.

⁵⁵ ‘Against Their Will: The Situation in Xinjiang’ (n 34); Maya Wang (52).

⁵⁶ *ibid.*

extremism and thereby remove terrorist threats.⁵⁷ However, according to experts, the oppression of ethnic minority groups- although never justified- remains extremely disproportionate to the minor threats of terrorism arising from the Uyghur separatist movement.⁵⁸

The ultimate goal is to force all individuals to align their personal beliefs to the CCP's ideology, as well as to strip away their cultural traditions, language, beliefs, and value systems.⁵⁹ Political indoctrination is thus also at play, with communist views being pushed onto ethnic minority groups.⁶⁰ Amidst these concerns, the Chinese government is reassuring that the re-education camps are purely vocational and teach individuals essential job skills. Meanwhile, evidence has shown that individuals are forced to do cheap or unpaid labour.⁶¹ In 2020, there were estimated to be around 360 re-education camps in the Xinjiang region, with one to three million Uyghurs kept within.⁶² Furthermore, oppression tactics such as exhausting individuals through physical training, multiple hours of learning communist propaganda, mandatory learning of Mandarin Chinese, having no access to the outside world, torture, forced sterilisation, and sexual abuse, are used to mentally weaken the individuals, eventually leading them to accept the ideologies of the CCP as their own.⁶³

A similar avenue of forced labour is presented in the form of government-backed labour transfer programmes, under which Uyghurs are forced to work in Xinjiang and other regions in China. This practice forces Uyghurs to relocate to urban areas where they are then subjected to forced labour.⁶⁴ The individuals within labour transfer programmes are also subjected to ideological indoctrination and face the threat of sanctions such as detainment and physical punishment in case of refusal to work.⁶⁵

According to the Chinese government, the labour transfer programmes aim to boost the nation's economy and eliminate the threat of social instability.⁶⁶ The individuals of ethnic minority communities are perceived as under-employed and should be taking part in uplifting the economy, according to China.⁶⁷ Furthermore, by placing them under the government's surveillance in labour programmes, poverty is decreased, and threats of religious extremism spreading and ethnic violence are eliminated, according to CCP.⁶⁸ In relation to decreasing

⁵⁷ Jen Kirby, 'Concentration camps and forced labour: China's repression of the Uighurs, explained' (*Vox*, 25 September 2020) <<https://www.vox.com/2020/7/28/21333345/uighurs-china-internment-camps-forced-labor-xinjiang>> accessed 21 March 2024.

⁵⁸ *ibid.*

⁵⁹ Gulbahar Haitiwaji Rozenn Morgat, 'Our souls are dead': how I survived a Chinese 're-education' camp for Yughurs' (*The Guardian*, 12 January 2021) <<https://www.theguardian.com/world/2021/jan/12/uighur-xinjiang-re-education-camp-china-gulbahar-haitiwaji>> accessed 21 March 2024.

⁶⁰ 'Against Their Will: The Situation in Xinjiang' (n 34).

⁶¹ Jen Kirby (n 55).

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ 'China: Carmakers implicated in Uyghur forced Labour' (n 31).

⁶⁵ *ibid.*

⁶⁶ Chrish Buckley and Austin Ramzy, 'Inside China's Push to Turn Muslim Minorities Into an Army of Workers' (*The New York Times*, 1 July 2020) <<https://www.nytimes.com/2019/12/30/world/asia/china-xinjiang-muslims-labor.html>> accessed 21 March 2024.

⁶⁷ *ibid.*

⁶⁸ *ibid.*

poverty, the labour transfer system is embedded in the poverty alleviation program, where Chinese officials are under pressure to lift a certain amount of individuals out of poverty.⁶⁹ However, this is to the detriment of ethnic minority groups, who are commonly moved against their will to perform other jobs and receive only little to no pay for their work.⁷⁰

Lastly, a justification for the use of forced marriage as a form of modern slavery is the alleged need to create more unity through ethnic infusion in China.⁷¹ Many Uyghur women are reportedly forced into marriage with Han-Chinese men on behalf of the Chinese government, for which the CCP has even offered financial incentives to the Uyghur families.⁷² However, in reality, women do not have a choice on whether or not to enter a marriage, as they are faced with an option to either be detained if they refuse, or have a detained family member released as a trade-off when entering into marriage.⁷³

As reiterated by the Abolition of Forced Labour Convention 1957, the use of forced labour is prohibited for reasons such as punishment for expressing political views, economic development and racial, religious, or other types of discrimination.⁷⁴ Thereby, the practices of the Chinese government on state-imposed forced labour are not in line with its international obligations, as forced labour is used for the economic development of the nation through poverty alleviation policies. Additionally, the political and ideological indoctrination as part of the so-called “re-education” camps, is a means to punish individuals for expressing their personal political views. The strict surveillance and coercive environment present within the Xinjiang region, further oppresses and discriminates towards the ethnic minorities within.

1.4. EFFECTS OF FORCED LABOUR

1.4.1. *Economic*

Forced labour might appear attractive to employers, as it lowers production costs due to the absence of formalised, declared wages. Consequently, this increases the value added per item produced.⁷⁵ Moreover, forced labourers—like slaves—can be treated as collateral that can be traded or seized after bankruptcy.⁷⁶ Nevertheless, there are many more downsides in employing forced labour.

⁶⁹ Amy L Leher, ‘Addressing Forced Labour in the Xinjiang Uyghur Autonomous Region: Toward a Shared Agenda’ (CSIS, 30 July 2020) <<https://www.csis.org/analysis/addressing-forced-labor-xinjiang-uyghur-autonomous-region-toward-shared-agenda>> accessed 21 March 2024.

⁷⁰ *ibid.*

⁷¹ ‘Modern Slavery in China’ (n 30).

⁷² *ibid.*

⁷³ *ibid.*

⁷⁴ Abolition of Forced Labour Convention No. 105 (n 16), Article 1.

⁷⁵ Juliette Faure, ‘Forced Labour: Does it Make Economic Sense?’ [2015] UNU/SIPA Junior Research Fellowship Paper Series <https://collections.unu.edu/eserv/UNU:3293/JRF01_ForcedLabour.pdf> accessed 24 March 2024.

⁷⁶ *ibid.*

The maintenance cost to sustain the forced labour camps can be high in the long run. Employers would need to cover the cost of food, accommodation, and healthcare. Additionally, without a legitimate labour contract, employers would need to coerce the labourers to work appropriately.⁷⁷ This means that employers have to invest in equipment that can repress the forced labourers and prevent them from leaving, such as surveillance and security.⁷⁸ Furthermore, the employers would have to deal with sub-optimal productivity of forced labourers, who lack incentives to work beyond what is required and are themselves suffering dire conditions that affect regular productivity.⁷⁹

Additionally, utilising forced labour is not appealing to other actors in the supply chain, especially if they collaborate with many other stakeholders.⁸⁰ If forced labour is identified along a company's supply chain, non-governmental organisations (NGOs), trade unions, and other international supervisory bodies usually publicise the deplorable actions of the supplier, which may lead to considerable reputational damage. On top of that, consumer boycotts against companies using forced labour will reduce sales, which can ultimately lead to companies terminating the supplier's contract and the loss of the employers' income.

Economically, employing forced labourers is thus unsustainable in the long run. Employing forced labourers to do low-skilled work means there is a lack of investment in human capital.⁸¹ As the Chinese model is focused on low labour costs, it will refrain from investing in the training, education and formation of citizens to avoid having to pay higher wages for a more educated, high-skilled workforce. This will in turn cause the economy to stagnate due to the emphasis on the lowest end of the production ladder that generates a lower profit margin and is confronted with fluctuating international demands.⁸² Aside from economic reasons, it is needless to say that forced labour has a harrowing impact on the respect of social and human rights.

1.4.2. Social and human rights

Forced labour has infringed on various human rights such as the right to freedom from forced labour, the right to work, the right to not be subjected to torture, cruel, inhuman or degrading treatment, the right to enjoy just and favourable work conditions, right to an adequate standard of living, and so on. By being denied these human rights, people subjected to forced labour become more vulnerable. The duty-bearers of human rights are States. Thus, people facing state-imposed forced labour are in a place of higher vulnerability than usual.

⁷⁷ *ibid.*

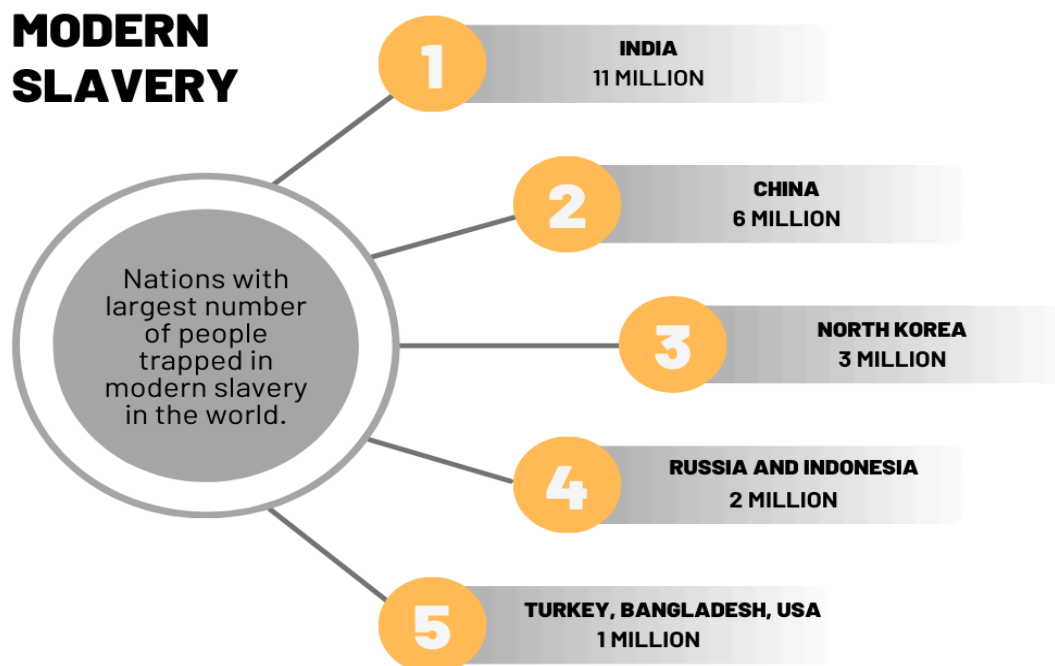
⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ 'Business and Human Rights Navigator, Forced Labour' (*United Nations Global Impact*, 2023) <<https://bhr-navigator.unglobalcompact.org/issues/forced-labour/>> accessed 26 March 2024.

⁸¹ Juliette Faure (n 75) 5.

⁸² *ibid.*



Source: Laurin-Whitney Gottbrath and Alice Feng, ‘Compounding crises push more people into modern slavery, report warns’ (*AXIOS*, 25 May 2023) <https://www.axios.com/2023/05/25/modern-slavery-countries-rank-list-forced-labor> accessed 3 April 2024.

In 2021, the nations of the world held all together 50 million people in modern slavery, of which at least 27,6 million were in forced labour and 22 million in forced marriages.⁸³ The most vulnerable, such as women and children, are disproportionately affected by forced labour.⁸⁴ More than 12 million of the total number of people trapped in modern slavery are children, whilst girls and women amount to more than half of the number of people in modern-day forced labour around the world.⁸⁵ Factors such as an increase in conflicts, poverty, the economic and social impacts of COVID-19, environmental degradation, and global democratic decline, all have affected the increase of modern-day slavery globally.⁸⁶ Moreover, investigations show that the greatest drivers of modern-day forced labour were discrimination based on sexual orientation, gender, and belonging to ethnic minorities.⁸⁷

As can be seen, China is the second largest country for having its people in a situation of modern slavery. Alarming, as stated through reports, in 2020, the number of Uyghurs placed in modern slavery amounted to 1.8 million in total, which has most probably increased even more up to date.⁸⁸ The nations of the world are responsible for reducing modern slavery,

⁸³ Laurin-Whitney Gottbrath and Alice Feng, ‘Compounding crises push more people into modern slavery, report warns’ (*AXIOS*, 25 May 2023) <https://www.axios.com/2023/05/25/modern-slavery-countries-rank-list-forced-labor> accessed 22 March 2024.

⁸⁴ ‘Global Slavery Index 2023’ (*Walk Free*, 2023)

<https://cdn.walkfree.org/content/uploads/2023/05/17114737/Global-Slavery-Index-2023.pdf> accessed 3 April 2024.

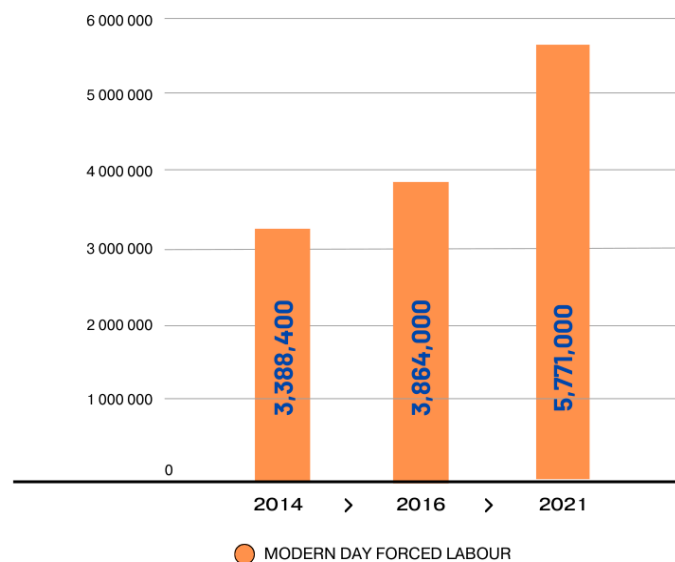
⁸⁵ *ibid.*

⁸⁶ *ibid.* 24.

⁸⁷ *ibid.* 26.

⁸⁸ Luke Adams, Steve Andrews, Scott Flipse et al., ‘Global Supply Chains, Forced Labour and the Xinjiang Uyghur Autonomous Region’ (*Congressional-Executive Commission China*, March 2020)

through investing in modern slavery responses on their territory, whilst taking into account the resources that are available to them as well as the economic status of the country in question.⁸⁹ China has not been making any significant input in trying to reduce modern slavery on its territory.⁹⁰ The following graph will represent the increase in forced labour in China as well as the probable causes for such.



Source: Walk Free, The Global Slavery Index Report (2016, 2018, 2023)

The number of people in modern-day slavery has increased in China over the years, however, it is important to note that the numbers are mere estimates. There is a high likelihood that even more people are trapped in modern-day forced labour than the reports present.⁹¹ Factors, such as the difficulty of identifying victims affect the estimations. Investigations on identifying victims face barriers, such as reaching victims of modern slavery, based on fears of punishment for coming forward and speaking about their experiences.⁹² Furthermore, the Chinese government is reluctant to allow auditing firms or human rights organisations to enter the Xinjiang region which itself slows down and prevents the investigations from reaching the real number of people held in modern slavery.⁹³

The Asian region has problems in accepting minority groups, such as ethnic minorities, which is a major factor in the vast number of people subjected to forced labour and modern

<<https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/CECC%20Staff%20Report%20March%202020%20-%20Global%20Supply%20Chains%2C%20Forced%20Labor%2C%20and%20the%20Xinjiang%20Uyghur%20Autonomous%20Region.pdf>> accessed 25 March 2024.

⁸⁹ 'Global Slavery Index 2023' (n 84), 27.

⁹⁰ *ibid* 120.

⁹¹ *ibid* 116.

⁹² Brenda Brockman Smith, 'China's Use of Forced Labour in Xinjiang– a Wake-Up Call Heard Round the World' (*Council of Foreign Ministers*, 26 August 2021)

<<https://www.cfr.org/blog/chinas-use-forced-labor-xinjiang-wake-call-heard-round-world>> accessed 3 April 2024.

⁹³ 'Modern Slavery in China' (n 24).

slavery.⁹⁴ A similar trend can be seen in China, where the ethnic minorities in the Xinjiang region are forcibly detained and transferred to re-education camps to conduct forced labour as well as an increasing number of individuals from ethnic minorities are forcibly subjected to labour transfer programmes, for which they cannot refuse due to being detained upon refusal.⁹⁵ In 2020, the Chinese government reported to have transferred over two and a half million people from the Xinjiang region to other regions of China, and the number of transferred individuals had increased in 2023 to 3.2 million.⁹⁶ Thereby, increases in the use of ethnic minorities for forced labour can be seen in China.

2. RECOMMENDATIONS

The following recommendations act as possibilities of bettering the state of using forced labour as a tool to oppress ethnic minorities as well as to safeguard the human rights of the oppressed against state-imposed forced labour in China. The recommendations are merely suggestions provided for the Chinese government, international actors, producers of goods as well as consumers, and are based on the calls of international actors, such as states, the ILO, international and national human rights organisations, anti-slavery organisations and projects, and trade unions.

2.1. CHINA

First recommendation: China is asked to strengthen the enforcement of laws on modern slavery, by bringing perpetrators to justice rather than protecting them.⁹⁷ Additionally, China is urged to update the national legislation to comply with the international standards on forced labour and human trafficking as at the moment the coverage of the existing national legislation is insufficient, leaving out males over the age of 14 as victims of human trafficking.⁹⁸

Second recommendation: China is urged to set up national service centres for the survivors of human trafficking and not to treat them as criminals for the crimes they were forced to conduct when being victims of human trafficking as in line with the obligations set within the Palermo Protocol.⁹⁹

⁹⁴ 'Global Slavery Index 2023' (n 84), 72 and 116.

⁹⁵ 'Forced Labour in the Uyghur Region: The Evidence' (*Helena Kennedy Center*, April 2023) <<https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/evidence-briefs>> 2 and 3 accessed 3 April 2024.

⁹⁶ *ibid* 3.

⁹⁷ 'Modern Slavery in China' (n 24).

⁹⁸ *ibid*.

⁹⁹ *ibid*.

Third recommendation: China is asked to deter from the policies that work as a guise to justify the use of modern slavery especially on the ethnic minorities based in Xinjiang as well as other communities of ethnic minorities and work towards criminalising practices that allow state-imposed forced labour to occur and condemn political leaders that take part in the use of modern slavery on its peoples.¹⁰⁰

Fourth recommendation: China is requested to allow the presence of auditing firms in Xinjiang to investigate the possible use of forced labour and to repeal its criminal investigations against companies and individuals which try to help in the inquiries of the use of forced labour and modern slavery.¹⁰¹

2.2. INTERNATIONAL ACTORS

First recommendation: The governments of the international community are urged to set legislation for mandatory due diligence obligations of multinational companies in which they should identify, prevent, mitigate, and remedy human rights abuses taking place in their supply chain and thereby take active initiative in working towards the elimination of forced labour used in the production of materials.¹⁰²

Second recommendation: The European Union is requested to adopt measures on forced labour as well as set specific measures that regulate the banning of imports and exports that use forced labour.¹⁰³ Thereby creating political pressure on China to stop using forced labour in the production of materials, such as aluminium, cotton, and polysilicon, which are used globally for the production of multiple products and goods. In line with the aforementioned, the United States has adopted the Uyghur Forced Labour Prevention Act. This act aims to ensure that entities, especially companies, are not funding or aiding the use of forced labour within the Xinjiang autonomous region as well as to prevent products from entering the United States market which are made with the use of forced labour.¹⁰⁴

2.3. PRODUCERS

First recommendation: The producers and multinational companies are requested to conduct a thorough examination of the origins of the materials and products used within a supply chain to be aware of the likelihood of the use of forced labour within production.¹⁰⁵ An even stricter measure would consist of the obligation of producers to disclose their supply

¹⁰⁰ *ibid.*

¹⁰¹ *ibid.*

¹⁰² 'Asleep at the wheel: Car Companies: Complicity in Forced Labour in China' (n 28).

¹⁰³ *ibid.*

¹⁰⁴ 'Uyghur Forced Labour Prevention Act' (*U.S. Custom and Border Control*, 8 March 2024)

<<https://www.cbp.gov/trade/forced-labor/UFLPA>> accessed 27 March 2024.

¹⁰⁵ 'China: Carmakers implicated in Uyghur forced Labour' (n 31).

chains and thereby indicate the origin of raw materials and holding the burden of proof of showing the lack of forced labour utilised with the production processes.¹⁰⁶

Second recommendation: The producers are urged to assess whether forced labour is used within any stage of the respective supply chain and in case indications of forced labour are present, stop collaborating with such producers.¹⁰⁷ In addition, in case the companies have links to producers operating in the Xinjiang region, they are asked to apply extra caution in assessing the use of forced labour, as the region is known for using ethnic minorities for involuntary labour.¹⁰⁸

2.4. CONSUMERS

First recommendation: Consumers are requested to familiarise themselves with products that are made with the use of forced labour, through reports which are easily available for everyone and which contain lists of goods and products which are tainted with the use of forced labour.¹⁰⁹

Second recommendation: Consumers are urged to become aware of the power they hold by boycotting from buying products that are made by forced labour and thereby in the long run create pressure on companies to produce their products with a voluntary workforce.¹¹⁰ Additionally, by raising awareness of the consumer pressure and using it, the reputation of brands can suffer as a consequence, leading to a change in their production process otherwise they can lose much economic revenue, which is not desirable for any company.¹¹¹

¹⁰⁶ *ibid.*

¹⁰⁷ *ibid.*

¹⁰⁸ *Against Their Will: The Situation in Xinjiang* (n 34).

¹⁰⁹ 'Modern Slavery in China' (n 24).

¹¹⁰ Michail Carrington, Andreas Chatzidakis and Deirdre Shaw, 'Addressing Consumer Awareness and (in)action towards modern slavery' (*Modern Slavery and Human Rights: Policy Evidence Centre*, October 2021) <<https://modernslaverypec.org/assets/downloads/Consumers-full-report.pdf>> 27 and 28 accessed 25 March 2024.

¹¹¹ *ibid.*

CONCLUSION

Modern slavery and forced labour are still widespread in China, holding an estimated amount of 6 million people in modern slavery, which amounts to the second largest number of people in modern-day forced labour in the world. These practices remain very problematic as they are largely government-imposed, and particularly target the Uyghur community from the Xinjiang region.¹¹² Even though China has legislation in place which ought to regulate and prohibit the forced work of an employee, as well as the trafficking of women and children, the enforcement of the national measures is not realised in practice.

In addition, China is a state party to several international agreements on matters related to forced labour, slavery, and human trafficking, including the Palermo Protocol, the Convention on Forced Labour and Abolition of Forced Labour Convention, the Slavery Convention and the Universal Declaration of Human Rights, and holds customary status for most of its provisions. In line with the obligations set within, China should be working towards eliminating all forms of forced labour and slavery within its state practices.

The Chinese government is justifying the use of forced labour under the guise of “re-education” of ethnic minorities, extracting involuntary work on the pretence of the government’s policy on poverty alleviation and increasing employment through government-backed labour transfer programmes. All such practices are condemned by the ILO, as reasons such as uplifting the economy of a nation, discrimination, and punishment for expressing political views cannot ever be used as justifications for forced labour. Most common economic activities which are performed by forced labourers include the production of textiles, garments, cotton, and food such as tomato-based products, aluminium and polysilicon amongst others. Respectively, modern slavery can present itself in many different forms, such as human trafficking, forced labour, forced marriage, domestic servitude, forced begging, and bonded labour, all being identified in China.

The effects of forced labour can cover many aspects, such as effects on the economy, as well as on society, and human rights outcomes. The economic effects of forced labour may incentivise employers to use forced labour, as the production of materials is cheaper compared to using labourers who would receive payment for their work. However, the use of forced labour has several downsides from a financial perspective. For instance, additional costs are incurred from maintaining forced labour camps, surveillance, and security related to such. Additionally, if the utilisation of forced labour in a supply chain surfaces, the reputation of a company can be tarnished, leading to the loss of revenue. From a social and human rights perspective, forced labour has devastating effects on individuals trapped within in addition to the infringement of various human rights. Being deprived of certain basic rights results in a position of high vulnerability, especially when forced labour is imposed by the state, as the state should be the main actor protecting the individual's human rights.

¹¹² Stuart Lau and Antonia Zimmermann (n 29).

As the level of use of forced labour in China is alarmingly high, the report provides recommendations for China and international actors as well as for producers and consumers. Different actors can all work towards decreasing the use of forced labour and consequently protecting the human rights of the ethnic minorities being subjected to it. The recommendations include amongst others, adopting legislation on banning imports and exports of products that have been made by the use of forced labour, allowing auditing firms to conduct investigations on the state of forced labour, conducting due diligence when assessing the presence of forced labour in supply chains, and using consumer pressure to make a change for the better.

LEGISLATION

- Abolition of Forced Labour Convention No. 105 (adopted 25 June 1957, entered into force 17 January 1959) 320 UNTS 291.
- Forced Labour Convention No. 29 (adopted 28 June 1930, entered into force 1 May 1932) 39 LNTS 55.
- ILO Recommendation R203: Forced Labour (Additional Measures) Recommendation, 2014 (103rd session Geneva 11 June 2014).
- International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1967) 999 UNTS 171 (ICCPR).
- International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 933 UNTS 3 (ICESCR).
- Labour Contract Law of the People's Republic of China (29 June 2007).
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 2237 UNTS 319 (Palermo Protocol).
- Protocol to the Convention No. 29 concerning forced or compulsory labour (adopted 11 June 2014, entered into force 9 November 2016) 3175 UNTS (Protocol on Forced Labour).
- Slavery Convention (adopted 25 September 1926, entered into force 9 March 1927) 60 LNTS 254.
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (adopted 7 September 1956, entered into force 30 April 1957) 266 UNTS 6 (Supplementary Convention on Abolition of Slavery).
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