



**FAIR LABOR**  
ASSOCIATION®

*Improving Workers' Lives Worldwide*

# ISSUE BRIEF

JANUARY 2020

## FORCED LABOR RISK IN XINJIANG, CHINA

### THE ISSUE

What forced labor risks are presented when sourcing from the Xinjiang region of China?

### BACKGROUND

The FLA has identified an increased risk for forced labor in Xinjiang, China. The risk stems from two sources: (1) China's internment of over one million Chinese citizens of ethnic Turkic origin in Xinjiang, and (2) forced labor by prisoners incarcerated in China's regular judicial system. The risk is present at all levels of the supply chain, from the farm level (for cotton and other agriculture products) to the finished-goods manufacture. The due diligence scope of the FLA for manufacturing companies is finished goods (tier one) facilities. Since we have not identified any FLA affiliates sourcing at the finished goods level in Xinjiang, the forced labor risk for FLA affiliates is from the cotton, yarn, or textiles produced in Xinjiang and then incorporated into finished goods in other parts of China or Asia. This upstream production risk could appear on cotton farms, ginning facilities, spinning mills, and other upstream textile process facilities.

The Xinjiang region is the source of over 80 percent of China's cotton which is used in supply chains in China or processed into yarn or textiles and exported to other countries for incorporation into finished goods. Xinjiang Province also administers

### FLA CODE ELEMENTS



#### **Code of Conduct provision regarding forced labor:**

There shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

Forced Labor benchmarks are listed in [Addressing Forced Labor in Supply Chains](#).



#### **Code of Conduct provision regarding employment relationship:**

**Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labor and social security laws and regulations.**

China's largest prison system. China has a long history of using prison labor in Xinjiang, particularly in the cotton sector. What used to be an isolated upstream risk for cotton production has now expanded to the finished goods sector for apparel products. Recent reporting from [Citizen Power Initiative for China](#) documents the use of prison labor in Xinjiang in the apparel sector.

The mass detention of Uighurs and other ethnic Turkic minorities (such as Kazakhs and Kyrgyz) in extra-judicial detention camps in Xinjiang has created a new forced labor risk beyond prison labor. As China has prioritized the vertical integration of its apparel supply chain in Xinjiang, it has provided incentives for companies and factories to move to Xinjiang to ostensibly provide jobs to minority groups as part of its "poverty alleviation" campaign. The Chinese government has concurrently implemented a "stability maintenance" campaign aimed at eradicating the perceived "violent extremism" among the Muslim population living in Xinjiang. In addition to creating a massive surveillance network throughout Xinjiang, this campaign includes a system of "re-education" camps, which according to official Chinese government statements, have "the goal of educating and rehabilitating people guilty of minor crimes or law-breaking and eradicating the influence of terrorism and extremism, in order to prevent them from falling victim to terrorism and extremism, and to nip terrorist activities in the bud." According to official Chinese government speeches and articles, the "poverty alleviation" and "stability maintenance" actions are linked and part of the government's overall strategy for the region.

There is evidence (including confirmation in Chinese government statements and from [internal Chinese government documents](#)) that "vocational training" (which includes work in textiles, apparel,

and other manufacturing) and other forms of labor are an integral part of the "re-education" program. On March 19, 2019, the Chinese government published a white paper titled "[The Fight Against Terrorism and Extremism and Human Rights Protection in Xinjiang](#)," which provides specific details about the "re-education" process. The document states that, "Based on local demand and employment conditions, they set up training programs in the making of garments, footwear, hats, food processing, assembly of electronic products, typesetting and printing, cosmetology and hairdressing, e-business, and other courses."

The result is that activities associated with "job creation" and "job training" in Xinjiang—normally viewed as positive activities—are now suspect because they are tools used by the government in forced labor and other human rights abuses. Specifically, the risk for forced labor would occur if detainees are sent to work to a factory or farm as part of the "re-education" process or because the Chinese government has ordered them to take the job. Attendance is mandatory; thus, workers may not be free to come and go at will. If they can come and go, they may not have the option to leave the job without fear of reprisals against themselves or against family members. Detainees may be sent to factories to work without pay, for reduced wages, or they may receive regular wages. Regardless of the worker's pay, the work is considered forced labor because the workers are not working of their own free will.

[The Associated Press](#), [The New York Times](#), and other credible news publications have reported evidence of forced labor at factories located in and around Chinese "re-education" camps in the Xinjiang Province, and have asserted that, in at least one instance, these goods have made their way into products that are then imported into the United States.

Accounts from Uighurs who have left the camps describe their experience as tantamount to torture and cultural eradication. Human rights organizations such as [Amnesty International](#) and [Human Rights Watch](#) have documented the human rights abuses taking place in these camps.

It is also known that China moves residents of Xinjiang to other parts of China to work in factories or other workplaces. Some companies have found evidence of Uighurs working in their supplier factory in the south of China. This practice introduces a risk of forced labor outside of Xinjiang. While companies will encounter many internal migrant workers in factories throughout China, companies should understand that in the case of some migrant workers, they may not be working on their own free will.

The U.S. Government has taken some action about the reports of human rights abuses, and the reports of forced labor specifically. On October 1, 2019, [U.S. Customs and Border Protection \(CBP\) issued five Withhold Release Orders \(WRO\)](#) related to forced labor; one of these orders was for garments produced at Hetian Taida Apparel Co., Ltd. in Xinjiang. The WRO allows CBP to detain shipment of garments made by Hetian Taida at the U.S. port of entry based on a reasonable suspicion of forced labor.

## **DUE DILIGENCE AND REMEDIATION ARE LIMITED**

Normally forced labor can be detected and remediated through effective due diligence measures. In the case of Xinjiang, however, companies cannot rely on normal due diligence activities to either confirm—or rule out—the presence of forced labor. Impediments to effective due diligence and effective remediation of forced labor stem from:

- **Restricted access:** The Chinese government has restricted regular travel to the region and imposed heavy surveillance on those who do travel there. Independent auditors are not able to gain unfettered access to work sites.

## **Status of China’s “re-education” centers as forced labor**

From 1957 to 2013, China operated a system known as “re-education through labor”. These labor camps were used to confine anyone from a petty criminal to a political activist. The standard for detaining someone was low, and often did not require a trial or a judge. These labor camps were criticized by international human rights groups such as Human Rights Watch as a violation of international law, specifically Article 9 (4.) of the International Covenant on Civil and Political Rights (ICCPR), which provides that “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention...” The United States has a long-standing legal provision that prohibits the import of goods produced with forced or prison labor. The U.S. government has deemed the import of goods manufactured in these “re-education” labor camps as prison labor, and thus subject to a ban on import into the United States. The FLA has also consistently deemed “re-education” camps to be part of the prison system, and therefore any work conducted at those sites is forced labor.

- **Unreliable information:** Workers are not able to communicate freely about their status at the work site or the working conditions without fear of political reprisal against themselves or their family members. Other individuals in the region, including auditors, may not be able to communicate freely about their findings without fear of reprisal.
- **Lack of effective remediation options:** Suppliers operating in the region may face a situation in which the Chinese government, not the company, mandates and controls recruitment of affected workers. This may limit their ability to communicate freely about the situation as well as their ability to protect affected workers.

## RECOMMENDATIONS

FLA standards on forced labor [detail more than a dozen indicators](#) for companies evaluating whether their suppliers or producers are upholding their human rights commitments, and can be useful at any supply chain level. Beyond the basic requirement that “workers shall have the right to enter into and to terminate their employment freely,” and the clear prohibitions on “prison labor [and] bonded labor,” FLA standards also require that workers must have reasonable freedom of movement at work, must not be bound to their jobs by debt, and may not be forced to work overtime involuntarily.

Considering the compulsory nature of the “re-education” camps and the reported risk that detainees of these camps may be sent involuntarily to labor in workplaces (factories or farms) either in the “re-education” camp compound or outside the camp compound, we urge affiliates to take the following steps:

1. Companies should map their product supply chain to determine if the cotton/yarn/textile used in the finished good comes from Xinjiang.
2. Companies should presume that raw materials, semi-finished, or finished goods from Xinjiang are likely to be produced with forced labor.
3. Companies should recognize the limitations of regular due diligence activities in Xinjiang (restricted access; lack of reliable information; poor remediation options) and presume that, absent a change in government policy and actions, social audits are not likely to effectively detect forced labor and are not likely to provide credible proof of the absence of forced labor.
4. While worker interviews can usually be a source for information about potential forced labor, in this instance, companies should presume that worker interviews are unlikely to yield reliable information due to potential pressure on workers not to reveal their status as a detainee, or to openly discuss the situation of other workers. This same presumption also applies if the workers are found in factories outside of Xinjiang.
5. Companies should presume there is forced labor when workers are recruited or deployed through government labor agencies. In response, companies should increase their due diligence at all factories in China to assess for the presence of ethnic Turkic minorities who may be working involuntarily.

6. Companies should continue to clearly communicate with suppliers your company's policy against forced labor, its presumption of forced labor in this instance, and the potential legal consequences for using forced labor anywhere in your supply chain.
7. Companies should be attuned to the fact that manufacturers in China may be compelled by the government to participate in employment or training programs, and as a result, may not be free to be transparent to buyers about the status of some of the workers in their facility.
8. Companies should be attuned to the fact that suppliers may lack effective remediation options, since they could be compelled by the government to participate in employment or training programs.
9. To help address the risk of unauthorized sub-contracting, companies should ensure internal alignment and collaboration between sourcing/quality and social compliance teams so there is careful review of production capacity and capabilities of authorized suppliers/subcontractors.

The FLA will continue to work with FLA brands and suppliers, as well as international organizations and governments to seek ways to restore the ability to conduct effective due diligence in Xinjiang in a manner that is unrestricted and where auditors and workers are able to provide credible information without fear of governmental reprisal.

## ADDITIONAL READING:

[Beyond the Camps: Beijing's Long-Term Scheme of Coercive Labor, Poverty Alleviation and Social Control in Xinjiang.](#) The Journal of Political Risk. December 2019

['Absolutely No Mercy': Leaked Files Expose How China Organized Mass Detentions of Muslims,](#) The New York Times, November 16, 2019

[Uyghurs in China,](#) Congressional Research Service, November 19, 2019

[U.S. Exposure to Forced Labor Exports from China,](#) U.S.-China Economic and Security Review Commission, August 8, 2017

[US clothing company drops Chinese supplier over Xinjiang forced labour concerns,](#) The Guardian, January 10, 2019

[Ex-Detainee Describes Torture in China's Xinjiang Re-Education Camp,](#) Morning Edition, NPR, November 13, 2018

[Surveillance, Suppression, and Mass Detention: Xinjiang's Human Rights Crisis,](#) Congressional-Executive Commission on China, July 26, 2018

### **About the Fair Labor Association**

*The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.*