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ASSESSING THE UYGHUR FORCED LABOUR PREVENTION ACT (ULFPA): DOES IT EFFECTIVELY COMBAT FORCED LABOUR?

AUTHORED BY - SHOHINI ROY

ABSTRACT

“The slave went free; stood a brief moment in the sun; then moved back again toward slavery.”

- W.E.B. Dubois

When we reflect on the concept of slavery, our minds often turn to historical or "conventional" forms of slavery, such as the painful chapter where millions of individuals were forcibly taken from their African homes and transported across the Atlantic to spend their lives toiling on the plantations of America. However, it's crucial to recognize that slavery isn't confined to the past. It continues to exist in different forms all over the world.

One example of modern slavery is the oppression of Uyghurs in China. For ages, they have been oppressed and subjected to widespread human rights violations including mass internment camps, forced labour, forced assimilation, surveillance, and suppression of religious practices.

The Uyghur Forced Labour Prevention Act (UFLPA) in the U.S. was enacted to combat forced labour linked to the Xinjiang region of China by banning imports from the region unless companies can prove they were not produced using forced labour. While the UFLPA marks a significant legislative move by the United States to uphold global human rights standards, its implementation and effectiveness raise a number of complex legal, economic, and diplomatic questions. The Act functions on the presumption that all goods produced in the Xinjiang Uyghur Autonomous Region (XUAR) are tainted by forced labour. This shifts the burden of proof to importers to establish otherwise. The stringent standards set by the Act aims to disrupt the financial reinforcements of forced labour networks, but it also places considerable pressure on global supply chains, particularly in industries like textiles, solar energy, and electronics where Xinjiang plays a critical role. Furthermore, the enforcement mechanisms of the UFLPA, including import bans and the use of Withhold Release Orders (WROs) by U.S. Customs and

Border Protection, highlight the seriousness with which the U.S. is addressing these abuses. However, questions remain regarding the transparency of enforcement processes, the availability of credible third-party audits in the region, and the geopolitical ramifications of the Act. Additionally, the Act has also faced criticism for being protectionist in nature. This study analyses the extent to which the act has been effective in achieving its objective.

WHO ARE THE UGHYURS?

The Uyghurs are predominantly a Turkic speaking Islamic ethnic group residing in China's Xinxiang Region. They are settled, village-based community residing in the network of oases located in the valleys and lower slopes of the Tien Shan, Pamir, and adjacent mountain ranges.¹

There have been controversies regarding the origin of the Uyghurs, Some scholars have contended that they belong to the nomadic group established in the 8th Century Uyghur Khanate that is a kingdom along the Orhon River. The khanate came to an end following a Kyrgyz assault on its capital, Karabalghasun, in 840, located about 200 miles (320 km) west of present-day Ulaanbaatar, Mongolia. After the city fell, the ruling Uyghurs migrated southwest toward the Tien (Tian) Shan, or "Celestial Mountains," settling in the region now known as Xinjiang. There, they established a new independent kingdom in the Turfan Depression. This kingdom remained until it was eventually conquered by the expanding Mongol Empire in the 13th century. Many scholars regard this migration and settlement as the foundation of the modern Uyghur identity, placing their arrival in Xinjiang between the 9th and 13th centuries.²

Another group of scholars are of the opinion that contemporary Uyghurs largely descend from various nomadic groups that inhabited Xinjiang long before the rise of the Uyghur Khanate. Based on Chinese historical records, researchers have identified several such groups dating from the 17th century BCE to the 3rd century CE as possible ancestors. Others point to even older populations, identified through archaeological findings in the region, as potential forebears of the Uyghurs.³

The Xinxiang region of China is home to about 12 million Uyghurs.⁴

¹ 'Uyghur' (Encyclopaedia Britannica, 2024) <[Uyghur | History, Language, China, & Muslims | Britannica](#)> accessed 12 April 2025.

² Ibid

³ Ibid

⁴ Who are the Uyghurs and why is China being accused of genocide? (BBC News, 2022) <[Who are the Uyghurs and why is China being accused of genocide? - BBC News](#)> Accessed 12 April 2025

THE UYGHUR CRISIS AND GLOBAL RESPONSE

Despite their rich history and cultural heritage, the Uyghurs have faced significant political and human rights challenges, especially in recent decades. There have been growing concerns internationally about their treatment in China, including allegations of mass detentions, cultural suppression, and forced labour. The Chinese government claims its actions are part of anti-terrorism and de-radicalization efforts, but many human rights organizations view them as violations of Uyghur rights and identity.

Following the creation of the Xinjiang Uyghur Autonomous Region in the 1950s, significant migration of Han Chinese into the area began and it intensified after 1990. By the end of the 20th century, Han Chinese made up around 40% of Xinjiang's population. This demographic shift contributed to increasing economic inequalities and mounting ethnic tensions between the Han and the native Uyghur population. This resulted in a lot of unrest in the region. There was a major outbreak of violence in Urumqi where there were approximately 200 deaths which mostly included the Han population. Following the 2009 incident, violent clashes and attacks became more frequent, involving stabbings and suicide bombings. In response, the Chinese government launched a series of strict security measures targeting Uyghurs suspected of separatist or dissident activities. These measures included mass arrests, the use of lethal force, and lengthy prison sentences for those found guilty.⁵

According to an article by BBC, a series of police files obtained by them have revealed details of China's use of "re-education camps" where the Uyghurs have been detained and have also described the routine use of armed officers and the existence of a shoot-to-kill policy for those trying to escape.⁶

The Uyghurs have been victims to state imposed forced labour. Uyghurs held in detention camps are subjected to harsh and exploitative conditions. In one such camp located in Kashgar, Xinjiang, detainees are forced to work in textile production with minimal pay. They are not permitted to leave the camp or have any contact with their families. Similar instances have also been found in the eastern coastal province of Fujian. At a factory in Quanzhou, Uyghur labourers face discriminatory practices. They live separately from Han Chinese workers in

⁵ 'Uyghur' (*Encyclopaedia Britannica*, 2024) [Uyghur | History, Language, China, & Muslims | Britannica](#), accessed 12 April 2025.

⁶ Who are the Uyghurs and why is China being accused of genocide? (BBC News, 2022) < [Who are the Uyghurs and why is China being accused of genocide? - BBC News](#) > Accessed 12 April 2025

heavily monitored dormitories enclosed by iron gates and surveillance cameras. Compared to their Han counterparts, Uyghur workers are often assigned longer shifts. After work, they are escorted back to their dorms by police officers from Xinjiang rather than by local authorities. The stated purpose of this is to conduct roll calls and ensure no one is missing. However, these workers are not free to leave the premises, and their identification documents have been seized by local police, further restricting their autonomy.⁷

China has a state- owned paramilitary force known as the Xinxiang Production and Construction Corps (XPCC). It is a central entity of the government that facilitates a system of forced labour, forced cultural assimilation, and society wide control and coercion in the region,⁸

The United States and a number of other nations have accused China of committing genocide against Uyghurs. Chinese officials have claimed that they have not committed any violation of the Uyghurs' rights and that they have closed the "re-education" camps in 2019.⁹

In August 2018, the United Nations Office of the High Commissioner for Human Rights (OHCHR) urged China to halt the detention of Uyghurs, though Chinese authorities rejected claims about the existence of such camps. The OHCHR reaffirmed its concerns in a 2022 report, suggesting that China's treatment of Uyghurs and other Muslim-majority communities in Xinjiang could amount to crimes against humanity. China issued a 131-page response, where it firmly denied all allegations of human rights abuses in the region.¹⁰

THE UYGHUR FORCED LABOUR PREVENTION ACT

The Uyghur Forced Labour Prevention Act was enacted on the 23rd of December, 2021 for the purpose of strengthening the existing prohibition against the importation of goods made wholly or in part with forced labour into the United States and also for the purpose of putting an end to the systematic use of forced labour in the Xinjiang Uyghur Autonomous Region. The Act places a burden of proof on the on importers, aiming to ensure that supply chains are free from

⁷ 'Uyghur' (*Encyclopaedia Britannica*, 2024) [Uyghur | History, Language, China, & Muslims | Britannica](#), accessed 12 April 2025.

⁸ 'Institutionalized Oppression: Forced Labor Programs Targeting Uyghurs and Other Minorities in the Xinjiang Uyghur Autonomous Region, China' (US Department of Labour) <[Against Their Will: The Situation in Xinjiang | U.S. Department of Labor](#)> Accessed 11 April 2025

⁹ Lindsay Maizland, 'China's Repression of Uyghurs in Xinjiang' (Council on Foreign Relations, 2022) <[China's Repression of Uyghurs in Xinjiang | Council on Foreign Relations](#)> Accessed 12 April 2025

¹⁰ Ibid

human rights abuses.¹¹

The Uyghur Forced Labour Prevention Act was introduced by Representative Jim McGovern (D-MA) on December 14, 2021, and swiftly passed both the House and the Senate with dual-party support. The law became effective on June 21, 2022.

IMPLEMENTATION AND ENFORCEMENT

Firstly, the law establishes that any goods whether fully or partially mined, produced, or manufactured in the Xinjiang Uyghur Autonomous Region (XUAR) are presumed to be the result of forced labour unless “clear and convincing evidence” proves otherwise. This “rebuttable presumption” effectively bans all such products from entering the United States under Section 307 of the Tariff Act of 1930. Although U.S. Customs and Border Protection (CBP), responsible for enforcing this section, had previously applied this standard to certain specific items from the region, Congress significantly broadened its scope to include all goods originating from the XUAR.¹²

Second, the Uyghur Forced Labor Prevention Act (UFLPA) mandates the U.S. interagency Forced Labor Enforcement Task Force (FLETF) formed under the United States-Mexico-Canada Agreement (USMCA) to develop a comprehensive strategy for blocking the import of goods linked to forced labour in the XUAR and to issue importer guidance. Notably, this guidance outlines detailed procedures for companies to follow in conducting human rights due diligence and tracing supply chains. These procedures help companies demonstrate either that their products have no connection to the XUAR, or if they do, that they were not made with forced labour. While previous government advisories, like the Xinjiang Supply Chain Business Advisory, had informed businesses about human rights concerns in the region, the UFLPA goes further—requiring specific companies to adopt due diligence and supply chain tracing mechanisms to rebut the presumption of forced labour or prove that the law does not apply to their imports.

The U.S. Customs and Border Protection (CBP), under the Department of Homeland Security,

¹¹‘Uyghur Forced Labor Prevention Act’ (U.S. Customs and Border Protection,) <[Uyghur Forced Labor Prevention Act | U.S. Customs and Border Protection](#)> Accessed 11 April 2025

¹² Marti Flacks, Madeleine Songy “The Uyghur Forced Labor Prevention Act Goes into Effect” (CSIS, 2022)<[The Uyghur Forced Labor Prevention Act Goes into Effect](#)> Accessed 10 April 2025

is responsible for blocking the import of goods produced using forced labour.¹³ CBP investigates reports of forced labour within global supply chains and has examined thousands of shipments across industries such as electronics, clothing, footwear, pharmaceuticals, agriculture, manufacturing, and automobiles. These efforts have led to the seizure of thousands of shipments worth hundreds of millions of dollars. Consequently, many companies have begun implementing due diligence practices to trace their supply chains and ensure they are in compliance with U.S. laws.

IMPACT OF THE ACT

A UFLPA Statistics Dashboard had been introduced by the CBP in March 2023 so that companies could track the latest statistics on such metrics as the number of denied shipments and the industries and countries of origin impacted by the UFLPA.¹⁴ As per the dashboard over 4600 shipments with a total value above \$1.6 Billion had been held back. The industries which were majorly affected by these included electronics, apparel, footwear and textiles and industrial and manufacturing materials.

Despite the fact that only around 13% of the shipments blocked in the U.S. originate directly from China, more than 80% come from countries like Malaysia and Vietnam. Other nations linked to these goods include Thailand and Sri Lanka. While the UFLPA is specifically aimed at addressing forced labour in China's Xinjiang-Uyghur region, data released by U.S. Customs and Border Protection (CBP) highlights that many other countries serve as intermediaries, incorporating raw materials sourced from Xinjiang into their supply chains.¹⁵

According to an article on how the act has affected the import of apparel, controlling for other factors, U.S. cotton apparel imports from China decreased by approximately 350 million square meter equivalents (SME) annually following the UFLPA's implementation. This decline is attributed to Xinjiang's contribution of nearly 90% of China's cotton production, and hence its association with forced labour.¹⁶ The US fashion companies are also cautious about sourcing

¹³ U.S. Department of State "Uyghur Forced Labor Prevention Act (UFLPA) Fact Sheet" (United States Department of State) <[Uyghur Forced Labor Prevention Act \(UFLPA\) Fact Sheet - United States Department of State](#)> Accessed 12 April, 2025

¹⁴ Monika Stankova "One year of UFLPA: What impact is the law having?" (AEB, 2023) <[The impact of the Uyghur Forced Labor Prevention Act \(UFLPA\)](#)> Accessed 12 April, 2025

¹⁵ Ibid

¹⁶ Sheng Lu "New Study: How Has the Uyghur Forced Labor Prevention Act (UFLPA) Affected U.S. Apparel Import?" (FASH455 Global Apparel & Textile Trade and Sourcing, 2024) <[New Study: How Has the](#)

from countries that rely heavily on Chinese cotton yarns and fabrics, due to potential forced labour risks.¹⁷

There has been an accelerated increase in Corporate initiatives to track the sources of cotton and other materials have shown that such traceability is achievable when sufficient pressure is exerted. This has broader implications beyond addressing Uyghur forced labour, as it sets a precedent for having strong laws across the world. Companies can no longer argue that tracing the origins of their products is too challenging.

In 2024, The US banned five additional Chinese companies for the use of force labour. This can act as an effective tool for discouraging other companies from using forced labour.¹⁸ This initiative is aimed at making human rights violations unprofitable.

ANALYSIS OF THE LAW: IS IT REALLY EFFECTIVE IN COMBATING FORCED LABOUR OR IS IT PROTECTIONISM IN DISGUISE?

The core mechanism of the Uyghur Forced Labour Prevention Act is banning imports of goods made wholly or in part in Xinjiang unless importers can rebut the presumption of forced labour. The Act has been violative of the principles of The General Agreement on Tariffs and Trade (GATT) the World Trade Organization, which aims to promote trade liberalization.

It is inconsistent with Articles XI of GATT which is Prohibition of Quantitative Restrictions, The Act is a direct breach of the provision as the measure goes beyond tariffs and taxes into prohibitive regulation. It is also a violation of the Most Favoured Nation (MFN) Obligation under Article I of the Act. WTO members must treat “like products” from all other WTO members equally, without discrimination. The Act effectively discriminates against Chinese products, particularly those from Xinjiang or containing its inputs, by imposing restrictions not applied to like products from other WTO members.

Article XX(a) of the GATT allows trade-restrictive measures if they are necessary to protect public morals, including concerns like human rights and forced labour. The UFLPA, which

[Uyghur Forced Labor Prevention Act \(UFLPA\) Affected U.S. Apparel Import? – FASH455 Global Apparel & Textile Trade and Sourcing](#)> Accessed 12 April, 2025

¹⁷ Ibid

¹⁸ Alex Willemyns and RFA Uyghur “US blacklists five more Chinese firms over Uyghur slavery” (Radio Free Asia, 2024) <[US blacklists five more Chinese firms over Uyghur slavery – Radio Free Asia](#)> Accessed 12 April 2025.

aims to combat forced labour in Xinjiang and protect Uyghur rights, could potentially qualify under this exception. WTO jurisprudence permits broad discretion in defining public morals, and extraterritorial application has precedent. However, the Act's necessity is questionable due to its sweeping presumptions, rigid enforcement, high evidentiary burdens, and lack of procedural clarity, which may render it excessively trade-restrictive and disproportionate in a WTO legal context.

The Uyghur Forced Labor Prevention Act (UFLPA), while ostensibly enacted to uphold human rights by prohibiting the importation of goods produced using forced labour, raises serious concerns about its alignment with the principles of trade liberalization and its potential misuse as a protectionist tool. At its core, trade liberalization is premised on reducing trade barriers, eliminating discriminatory treatment, and facilitating a free and fair flow of goods across borders. However, the UFLPA effectively imposes a region-wide ban on goods from the Xinjiang Uyghur Autonomous Region (XUAR) of China by presuming all goods made wholly or in part in the region involve forced labour unless importers can provide “clear and convincing evidence” to the contrary. The effect is worsened by the Act’s lack of clarity terms such as “in part” and “clear and convincing evidence” are not defined in precise legal terms, giving U.S. Customs and Border Protection (CBP) broad discretion in enforcement. This discretionary power risks being exercised inconsistently, leading to arbitrary detentions and eroding the predictability that international trade law seeks to guarantee. More concerning is the discriminatory nature of the Act, which singles out Chinese products linked to Xinjiang without applying equivalent scrutiny to similar goods from other regions where labour rights violations may also exist.

Since there are less harmful ways to achieve the same goal, like using targeted bans based on solid proof instead of assuming all goods from Xinjiang involve forced labour, the broad reach of the Act seems excessive. This strict approach makes it easier for critics to argue that the law, while presented as a way to protect human rights, is actually being used to unfairly block international trade and protect U.S. industries from competition.

The Act has been perceived as a method of protectionism in disguise by a number of scholars owing to its significant impact on international trade and the competitive advantage it offers to U.S. domestic industries. The evidentiary burden placed on importers to prove the absence of forced labour is extremely high and often unmanageable, especially given the complexity of

global supply chains and limited access to data in China. This discourages reliance on Chinese materials, particularly in the solar industry, where Xinjiang is a major supplier of polysilicon. As a result, U.S. companies benefit from reduced foreign competition and increased demand for domestically produced goods. In this context, the Act risks functioning as a disguised trade barrier, serving protectionist goals rather than purely humanitarian ones.

China has continued to deny its violation of human rights. The government has described the internment camps as vocational training centres aimed at providing employment opportunities and addressing religious and separatist extremism among the Uyghur Muslim population. There have been allegations of relocation of the detainees to different locations as well. This raises a question whether the Act is actually able to fulfil its main purpose that is the protection of the Uyghur population from forced labour or not. While the UFLPA is framed as a tool to prevent U.S. complicity in human rights abuses, it operates unilaterally without any direct engagement with Chinese authorities or independent mechanisms to investigate forced labour claims. If the Chinese government continues to obscure the realities on the ground and restrict access to verifiable data, the Act may end up punishing exporters and disrupting trade without effectively improving the conditions of the Uyghur population. Moreover, the relocation of detainees complicates supply chain tracing and raises concerns that forced labour practices may simply be moved or disguised rather than eliminated. Thus, the effectiveness of the Act in achieving its humanitarian goals remains uncertain, especially without international cooperation or transparency.

The Act's alignment with U.S. industrial policies and its advantageous effects for domestic manufacturers, further reinforce the argument that it serves protectionist goals under the guise of ethical regulation. Without multilateral cooperation, independent monitoring mechanisms, and transparent verification procedures, the UFLPA risks becoming more symbolic than substantive—disrupting trade flows without necessarily improving labour conditions in China. For the Act to truly serve its intended humanitarian purpose, it must be accompanied by international dialogue, evidence-based enforcement, and a proportionate, balanced approach that does not sacrifice trade liberalization principles in the name of moral objectives.

According to an article on the New Yorker, there is limited evidence to suggest that the UFLPA has significantly improved the human rights situation for Uyghurs in Xinjiang. Reports indicate that forced labour practices persist, and the Chinese government's policies in the region

continue unabated. Moreover, some Uyghurs have been transferred to other provinces under labour programs, complicating efforts to trace and prevent forced labour.¹⁹ So, while the Act has led to increased scrutiny of supply chains and heightened awareness among corporations, its direct impact on improving the lives of Uyghurs remains uncertain. This lack of measurable progress raises concerns about the effectiveness of unilateral sanctions in addressing deep-rooted human rights violations in the region. Without transparent data from the ground or cooperation from Chinese authorities, monitoring the true impact of the Act remains challenging. Moreover, the displacement of forced labour practices to less visible locations may indicate a shift rather than an end to exploitation.

CONCLUSION

The Uyghur Forced Labour Prevention Act (UFLPA) stands as an important piece of legislation aimed at upholding international human rights standards by curbing the import of goods produced through forced labour in the Xinjiang Uyghur Autonomous Region. At its core, the Act reflects the increasing resolve of democracies, particularly the United States, to address the systemic exploitation of marginalized groups through economic pressure and legal accountability. The UFLPA is undoubtedly a landmark attempt to align global trade practices with ethical labour standards. However, its effectiveness in achieving its stated humanitarian objectives remains a matter of considerable debate.

On the positive side, the Act has successfully compelled multinational corporations to re-evaluate their sourcing strategies and supply chain practices. The presumptive ban on goods from Xinjiang has incentivized companies to enhance their due diligence mechanisms, increasing transparency in sectors that have long suffered from opacity—particularly in apparel, electronics, and solar energy. The resulting improvements in traceability indicate that regulatory pressure can be a powerful force in promoting corporate accountability. In this respect, the UFLPA has triggered a broader conversation about ethical sourcing and has set a precedent for similar legislative frameworks in other jurisdictions.

However, the Act's practical impact on the Uyghur population in Xinjiang is far less clear. Despite increased global awareness and supply chain adjustments, credible reports continue to suggest that forced labour and human rights abuses persist. The Chinese government has not

¹⁹ Ian Urbina “The Uyghurs Forced to Process the World’s Fish” (The New Yorker, 2023) < [The Uyghurs Forced to Process the World’s Fish | The New Yorker](#) > Accessed 12 April, 2025

only denied the existence of such practices but has also restricted access to independent monitors, further complicating efforts to verify improvements. There are indications that some Uyghur detainees have been relocated to other regions of China under the guise of “employment transfers,” which undermines the effectiveness of the UFLPA by making forced labour harder to trace. Consequently, while the Act may be reshaping global trade behaviour, its ability to directly alleviate the suffering of Uyghurs on the ground remains questionable.

Moreover, the UFLPA has drawn criticism for potentially functioning as a tool of economic protectionism. The lack of clearly defined legal terms, the burden of “clear and convincing evidence” placed on importers, and the unilateral nature of the Act have raised concerns within the international trade community. While moral objectives such as human rights protection are legitimate grounds for trade restrictions under WTO rules, the overly broad application of the UFLPA and its disproportionate economic consequences cast doubt on its compliance with international trade norms. Without a multilateral framework or international cooperation, the Act risks being viewed less as a humanitarian measure and more as a geopolitical strategy that benefits domestic industries under the guise of ethical regulation.

In conclusion, while the UFLPA represents a bold legislative step toward combating forced labour, it cannot operate in isolation. To ensure meaningful and lasting change, it must be part of a broader international strategy that includes diplomatic engagement, independent monitoring mechanisms, and collaboration with allies to establish consistent global standards. Only through such coordinated efforts can the international community hope to address the root causes of forced labour and truly improve the human rights situation for the Uyghur population.