

USALI Perspectives

Opposing Forced Labor in Xinjiang

International organizations take baby steps, leaving states to respond

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Since 2017, China has been accused of arbitrarily detaining over one million Uyghurs in reeducation camps in Xinjiang, where they have been subjected to intense surveillance, involuntary sterilizations, and systemic discrimination. Foreign governments, including the United States, have described China's actions as [genocide](#), and a [report](#) by the UN Office of the High Commissioner for Human Rights (OHCHR) found that China "may have committed crimes against humanity." Researchers allege that the detained

Uyghurs are subjected to forced labor and made to produce cotton, [polysilicon](#) (used in making solar panels), and other goods for export. [Researchers](#) also have discovered a "labor transfer" program through which Uyghurs are involuntarily sent to work in factories in China's coastal provinces that export to the world.

The forced labor allegations have triggered a variety of responses from national governments and international institutions. For instance, the United

States is now implementing the Uyghur Forced Labor Prevention Act (UFLPA), which bans the import of goods that are produced in or use inputs from Xinjiang unless it can be proven they were *not* made with forced labor. According to news reports, the UFLPA has resulted in the seizure of imports from Xinjiang and has undermined demand for Chinese cotton since the law took effect on June 21, 2022. The European Union is discussing a ban on the sale within its borders of all goods made with forced labor, which many see as largely targeting products from Xinjiang. However, at the international level, after the publication of the OHCHR report, members of the UN Human Rights Council rejected a resolution to even debate the report's findings. Many observers viewed this as proof of China's considerable influence in the UN system.

The Human Rights Council is not the only UN agency with a responsibility to address the situation in Xinjiang, however. This essay analyzes whether the International Labour Organization (ILO) might play a role in influencing China to curb its forced labor practices.

The ILO is a UN agency created in 1919 to combat the exploitation of workers. Core labor standards are codified in its hundreds of conventions, which member states are asked to ratify. The ILO has ten fundamental conventions that address freedom of association,

forced labor, child labor, discrimination, and workplace safety. For years, China ratified only five of these conventions and often argued that many ILO standards exceed the "limited capabilities" of many member countries.

Last year, however, China ratified the two ILO fundamental conventions addressing forced labor: the Forced Labor Convention, 1930 (No.29) and the Abolition of Forced Labor Convention, 1957 (No.105). The two conventions require member states to stop and to prohibit the use of forced labor, including as a means of political education, mobilizing labor, or racial or religious discrimination. Furthermore, in June 2022, the ILO proposed to send a "technical assistance mission" to help China align its practices in Xinjiang with international labor standards.

What is the practical impact of China ratifying the forced labor conventions? First, China will now be obligated to submit an annual report on its compliance with these instruments. Annual reports by member states are reviewed by the Committee of Experts on the Application of Conventions and Recommendations, which is comprised of 20 jurists from different countries who may send comments to the member state or to the ILO. Second, and more critically, other member states as well as trade unions and employer associations that sit on the ILO's Governing Body

may make a representation to the ILO that China has failed to comply with the forced labor conventions. Failure by China to respond adequately may lead to the establishment of a **commission of inquiry**, which would investigate the complaint, issue findings of fact, and make recommendations. In such a scenario, if China did not comply with the recommendations, the ILO's Constitution authorizes it to take "**such action as it may deem wise and expedient to secure compliance therewith**," which may include calling upon member states to impose economic sanctions.

Unfortunately, the ILO has already taken a few steps down this road before without much impact on the ground. The International Trade Union Confederation has for years submitted information with the ILO Committee of Experts alleging that China's policies against the Uyghurs violate the ILO Convention on Discrimination (Employment and Occupation), 1958 (No. 111), which China ratified in 2006, and the Employment Policy Convention, 1964 (No. 122), which China ratified in 1997. In 2022, an ILO Committee reviewing China's practices "**deplored** the use of all repressive measures against the Uyghur people, which has a discriminatory effect on their employment opportunities and treatment as a religious and ethnic minority in China." Earlier this month,

the Committee of Experts reiterated its "**deep concern**" over such policies and called upon China to review, repeal, and revise its discriminatory laws and practices. But **China has not changed its policies** or even agreed to accept the proposed ILO technical advisory commission. Therefore, conducting an identical process of reporting and commenting about the same practices, albeit in the name of another convention, is unlikely to yield a different result.

The next question, therefore, is whether the ILO is willing to take stronger measures. A commission of inquiry has been established only 14 times in the ILO's history, and economic sanctions have been imposed only once — against **Myanmar's military junta in 2000**, due to its widespread use of forced labor. Even at that time, the Committee of Experts **warned** that economic sanctions are like "nuclear weapons," and said the best sanctions are those that are threatened but never used. This sentiment suggests that the ILO may not have the stomach to use economic sanctions in the future.

With regards to China, the "technical assistance mission" that the ILO proposed in 2022 falls far short of a commission of inquiry or imposition of sanctions. Even if China were to accept it, such missions generally involve meetings with government officials and sometimes seminars or workshops

conducted by ILO experts, followed by a report and recommendations. However, the problem in Xinjiang is not due to a lack of reports or technical assistance. In fact, the ILO has had a [Beijing office](#) since 1985.

While a technical assistance mission is unlikely to produce meaningful change, China's refusal to accept one may help persuade ILO member states to press for more serious action. If China agrees to accept the mission but then obstructs its work, this too may provide [added ammunition](#) to future calls for a commission of inquiry.

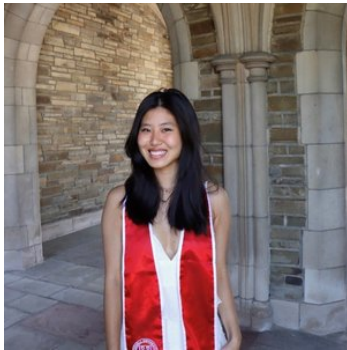
Of course, last year's vote at the UN Human Rights Council does not bode well for any fact-finding mission or

reporting leading to coercive sanctions. However, at the ILO, unlike the Human Rights Council, China lacks veto power. This is because the [ILO's Governing Body](#) includes not only national governments but also trade unions and employer associations, which together actually hold a majority of the votes. These non-governmental actors may be [harder for China to influence](#).

Even so, it would likely take a multi-step, multi-year process before the ILO would call upon its member states to actually impose sanctions. For the foreseeable future, any real pressure on China to address forced labor in Xinjiang will likely need to come from national or regional governments.



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