

Answers to questions on notice – Dr Darren Byler

Senator KITCHING (page 9): Could I ask—and you can take this on notice—what do you think the Modern Slavery Act threshold should be? I'd like to ask Ms Xu and Dr Byler as well if they could take this on notice: what should the threshold be to capture slave labour in supply chains?

While I have limited expertise on modern slavery legislation in the Australian context, I am happy to speak to this in a more general sense. To truly combat unfree labour, legislation should require companies to ensure that workers in their supply chains are free to choose their employer, are paid a legal wage, are permitted to freely resign their positions, are permitted to move freely when not working, are permitted to practice their faith and speak their own language at their site of employment. Workers in Australian supply chains should further be permitted to receive their own wages, rather than have them be disbursed through a government agency in their home community. They should be free to live and work without oversight from government monitors and state-affiliated security. They should not be forced to have their cell phones scanned and monitored by factory affiliated security workers. They should not work in locked cubicles and should be permitted to freely use toilets. Surveillance should be limited to public spaces (i.e. not in dormitories or bathrooms). Due diligence in the context of Chinese factories would require that inspectors be given unimpeded access to factory spaces and be permitted to observe and interview workers without the presence of state workers or factory administration. Mechanisms should also be put in place to ensure that interviewed workers are not punished for speaking to supply chain inspectors.

Senator KITCHING (page 9): The other question I wanted to ask is: on 12 January this year the United Kingdom and Canada made coordinated announcements about measures to help address the risk of forced labour entering the global supply chains and ensure that UK and Canadian businesses are not complicit in forced labour in Xinjiang. Could I ask all witnesses to take on notice: should Australia be doing more? We've seen some of our like-minded friends—other democracies—make claims. The UK parliament, the Commons, just had a vote recently. The UK government will deploy its Modern Slavery Act. It will utilise fines, it will put bans on public sector contracts, review of export controls to freeze out companies from its economy if they rely on forced Uighur labour in their supply chains. Should we be doing more around that?

Australia should both regulate access to companies that depend on coerced Uyghur labour and facilitate the relocation of supply chains to locations where Uyghur forced labour and Xinjiang cotton are no longer present. One of the issues confronting Canadian companies is a lack of knowledge of suppliers who are complicit in Uyghur and Kazakh forced labour. Australia should work with allies to compile lists of complicit suppliers and publicize declassified evidence of forced labour.

Senator KITCHING (page 9): This might be another burden potentially on business, but I'm interested in your views. Should importers of Xinjiang cotton use that in clothing products here? Should they have to put a sign on clothing saying, 'This cotton is from Xinjiang'?

Australia should both assist Australian companies in identifying the spread of Xinjiang cotton in supply chains and require that products bearing Xinjiang cotton be labelled as such. Such a supply chain transparency measure would assist consumers in making ethical choices when buying products made in China. One of the primary tactics of Xinjiang manufacturers at present is simply using factories in places like Taiwan and Vietnam, a process which at times works to obfuscate the origins of materials.

Written

You mention that people are aware they risk detention if they refuse a job assignment. Can you point to evidence of a person ending up in detention for refusing a job assignment?

To be clear most Xinjiang detainees and prisoners were and are detained due to past behavior that they did not realize would later be deemed criminal or extremism at the time when they carried out the activity. Most people when facing the threat of detention for present or future action simply submit to authorities. So my sense is that the vast majority of detainees were first detained for reasons unrelated to refusal to enter forced work programs. However, a number of Chinese state documents state directly that refusal of "state management" and "poverty alleviations" projects -- or simply criticizing them, should be deemed a sign of "religious extremism" which leads to "violent terrorism." For instance, items 16 and 43 in the official list of 75 signs of extremism that were used to decide if people should be sent to camps state this explicitly. It says that attacking or criticizing "Xinjiang Aid," the program which encompasses the forced labor system, is a sign of extremism. In some cases, my interviewees were able to refuse labor transfers due to medical illnesses or pregnancy, but others who had no such verifiable excuse had no choice but to work. In many of my interviews, former workers report being told directly that they understood that refusing to work or to sign a low wage contract would result in being sent to a camp, or being returned to a camp. Former detainees had the least amount of leverage in such situations. One former detainee told me that state workers told her to "sign the contract, or you will be sent back to camp." Internal police documents also show that the relatives of detainees were assigned work in locations far from their homes in Southern Xinjiang. They describe how their life was managed in both sending and receiving locations. It may be that a delay in accepting a work assignment would simply result in a warning from local officials, but if an unexcused refusal continues there is no doubt that the individual will be deemed "untrustworthy" -- i.e. the category that results in detention. Numerous interviewees who have left the region since 2018 and 2019 have confirmed that this is common knowledge in Uyghur and Kazakh communities throughout the region.