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Database of Business Ethics

21st century
detention camps
orchestrated by the
Chinese government

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An EU Directive on mandatory
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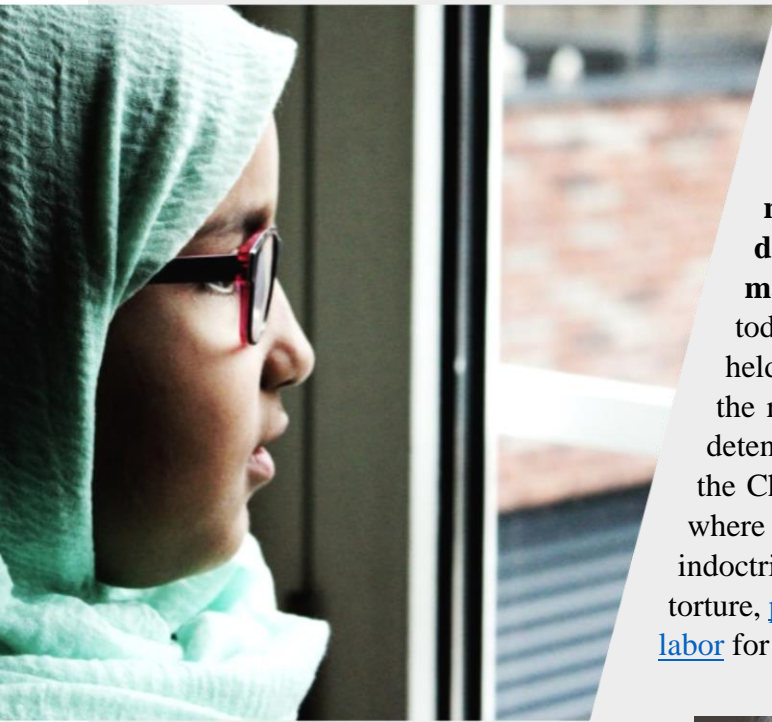
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Photo by Rachid Oucharia/Unsplash



21st century detention camps orchestrated by the Chinese government

Using concentration camps to detain religious minorities is a practice belonging to another era, a dark time in history we all learned about in school to make sure same mistakes were not repeated. Yet, today, Over [1 million Muslim Uyghurs](#) are suspected to be held captive in facilities in Xinjiang, China, according to the report by the Australian NGO ASPI. Since 2018, 380 detention centers were established in the region, claimed by the Chinese government to serve as ‘re-education facilities’ where traditional Chinese culture, Mandarin and communist indoctrination are taught. In reality, investigations revealed torture, [psychological indoctrination \(brainwashing\)](#) and [forced labor](#) for Chinese factories in some camps.

Photo by Mia Moessinger/Unsplash

Forced labor for the production of western-consumed products

The numbers are striking, [1 cotton garment out of 5 sold globally](#) contains cotton from the Xinjiang region, thus most likely to be tainted with forced labor. No less than 83 multinationals outsource part of their production in this region and have been identified by the NGO ASPI to benefit, directly or indirectly, from the use of Uyghur workers through abusive labor programs.

Some brands have responded to these claims when questioned about their activities in this region. H&M for instance [has ended their indirect relationship](#) in September 2020 with a cotton supplier in the Xinjiang region after evidence of forced labor in their supplier were publicized. Conversely, Apple has replied to these allegations by claiming that no evidence was found of any forced labor on their supply chain. This is contradictory with the US investigation, which has [blacklisted one of Apple’s key supplier](#) due to its human rights abuses involving Uyghur Muslims. In fact, forced labor allegations contradict the Codes of conduct of most multinational in this list, who publicly claim that working conditions in their supply chain respect international labor standards. This situation shows how far we still have to go to incentivize companies to behave ethically. More information can be found on [Sarah Vandenbroucke’s Leiden Law blog](#) contribution.

The list of companies having ties with suppliers using forced labor is included below. In **bold** are companies that have taken actions since the allegations to cut ties with those suppliers or promised to do so in the next 12 months.

Abercrombie & Fitch, Acer, **Adidas**, Alstom, Amazon, Apple, ASUS, BAIC Motor, BMW, Bombardier, Bosch, BYD, **Calvin Klein**, Candy, Carter’s, Cerruti 1881, Changan Automobile, Cisco, CRRC, Dell, Electrolux, Fila, Founder Group, GAC Group (automobiles), Gap, Geely Auto, General Electric, General Motors, Google, **H&M**, Haier, Hart Schaffner Marx, Hisense, Hitachi, HP, HTC, Huawei, iFlyTek, Jack & Jones, Jaguar, Japan Display Inc., L.L.Bean, **Lacoste**, Land Rover, Lenovo, LG, Li-Ning, Mayor, Meizu, Mercedes-Benz, MG, Microsoft, Mitsubishi, Mitsumi, Nike, Nintendo, Nokia, Oculus, Oppo, Panasonic, Polo Ralph Lauren, Puma, Roewe, SAIC Motor, Samsung, SGMW, Sharp, Siemens, Skechers, Sony, TDK, **Tommy Hilfiger**, Toshiba, Tsinghua Tongfang, Uniqlo, Victoria’s Secret, Vivo, Volkswagen, Xiaomi, Zara, Zegna, ZTE



News from Leiden:

Companies' supply chains exhibit higher risks for human rights infringements

The DBBE is committed to the collection and research of Codes of Conduct. We would like to keep you updated on the progress of our collection and research efforts to expand the scope of the DBBE. This edition will therefore present a number of statistics related to these efforts.

The main part of the DBBE is concerned with corporate Codes of Conduct, which are directed generally at the employees and associates of the Company.

Companies	Code of Conduct	Forced Labour*	Child Labour*	Freedom of Association*	Right to Collective Bargaining*
2319	1688	560 (41,9%)	531 (39,6%)	381 (28,5%)	263 (19,6%)
- * n = 1338 (total Codes of Conduct subtracted by Codes who could not be coded due to technological or language barriers)					

Recently the DBBE has extended its research from corporate Codes of Conduct to including Supplier Codes of Conducts. Supplier Codes of Conduct are directed specifically to suppliers (third parties) of the company and aim at *inter alia* protecting fundamental labour rights in the supply chain of the company.

Companies	Supplier Code of Conduct	Forced Labour*	Child Labour*	Industrial Rights*	Discrimination*
799	421	389 (95,6%)	382 (93,8%)	291 (21,7%)	386 (94,8%)
- * n = 407 (total Supplier Codes of Conduct subtracted by Codes who could not be coded due to technological or language barriers)					

As a concluding note to these statistics, the big difference between the corporate Codes of Conduct and the Supplier Codes of Conduct in the coverage of fundamental labour rights catches the attention. One potential explanation could point towards the divergence in intended public: companies may perceive the supply chain as a higher risk for abuse of fundamental labour rights than in their own company environment.

Photo by Markus Spiske/Unsplash



An EU Directive on mandatory Human Rights Due Diligence by 2021 is officially announced

The time of conducting business in a responsible manner is approaching fast as new mandatory Human Rights Due Diligence (HRDD) law is taking shape at the European Union (EU) level. The announcement to introduce binding rules for corporations followed after the [EU Commission's study on due diligence requirements through the supply chain](#) revealed that only one in three businesses from EU undertake due diligence measures with regard to human rights and environmental impacts, despite the existence of various voluntary standards such as [The United Nations Guiding Principles on Business and Human Rights \(UNGPs\)](#) or the [OECD Guidelines for Multinational Enterprises](#). In addition, businesses that do implement some form of due diligence simply do not meet the requirements of the UNGPs, often lacking a meaningful engagement with potentially affected stakeholders. Such actions often result in an array of issues, from the failure

to assess the most significant and plausible risks to reactive actions rather than proactive attempts to identify adverse human rights impacts before they arise.

What is due diligence?

Due diligence implies a process which includes four broad components:

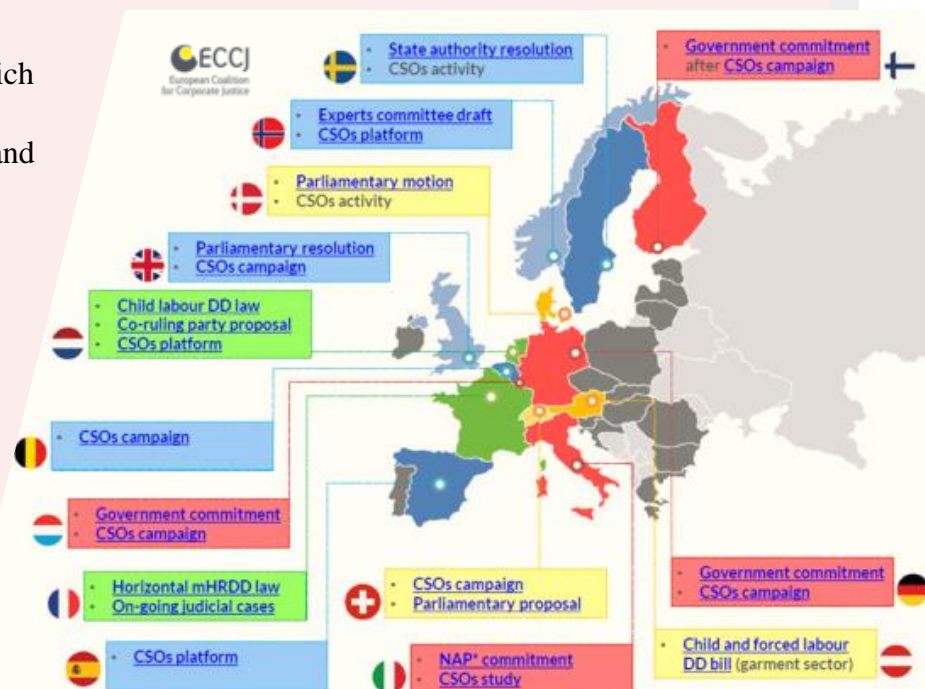
1. Identifying and assessing actual and potential impacts
2. Integrating and acting upon the findings
3. Tracking the effectiveness of these actions
4. Communicating how impacts are addressed, including through reporting

Why do we need an EU-level law on mandatory HRDD?

In fact, many EU countries already have or are in the process of adopting some sort

of regulations regarding corporate responsibility concerning

human rights, nonetheless, they all fall short. For instance, the Dutch [Child Labour Due Diligence Law](#) covers only the rights of children while France's [Duty of Vigilance Law](#) is missing an official monitoring system. The individual efforts to introduce regulations for corporations holding them accountable for their impacts on the livelihood of people are truly admirable, however, in practice a segregation of approaches across Member States is observed leading to more confusion. An EU-level law on mandatory HRDD will ensure a consistent and clear set of rules conclusive for every Member State to follow.



May 28, 2020/by [ECCJ](#)

What to expect from the mandatory HRDD

The goal is to have the new Directive by 2021 and in this regard, the EU Commission released a [public consultation](#) to get input from interested parties on how the proposal should be drafted.

Consequently, many respondents came out with [comments](#) and [recommendations](#) on what the mandatory HRDD Directive for EU must include. While everyone has an opinion of what is best, some ideas seem to be repeated:

- The Directive should refer to all internationally recognised human rights, as a minimum, to those encompassed by the [UDHR](#) and the [ILO Declaration on Fundamental Principles and Rights at Work](#).
- The Directive should request Member States to establish adequate instruments to monitor compliance and ensure enforcement, including through effective, proportionate and dissuasive penalties and sanctions.
- The Directive should apply to all corporations irrespective of their size or organizational structure, taking into account the principle of proportionality.
- The Directive should cover both EU corporations as well as to non-EU businesses placing products or providing services in the EU.
- The Directive should apply broadly to the corporations' own activities as well as throughout their global value chains.
- The Directive should go beyond reporting regime and require corporations to engage in meaningful processes to analyze, mitigate and remedy any adverse impacts on human rights.
- The burden of proof should be shifted from the victims to corporations.



Photo by Tingey Injury Law Firm/Unsplash

The impact on corporations

The EU Commission's [reports](#) show that new regulations may in fact prove advantageous to businesses rather than burdensome. While it is true that risk mapping and setting up of risk mitigating processes are both time consuming and onerous activities, simultaneously, general due diligence requirements for human rights and environmental impacts will serve as tools to build a level playing field for EU businesses. It will further improve the resilience of corporations vis-à-vis changing environmental or social circumstances and will allow them to gain competitive advantages on global markets leveraging to a better management of sustainability-related risks.

“From a global perspective, mandatory human rights due diligence brings opportunities to improve economic productivity, reduce inequalities, and improve livelihoods” [Alice Evans, Co-head and Managing Director, Responsible Investment at BMO Global Asset Management](#)

All things considered, with a fast approaching deadline, it remains to be seen what the actual EU Directive on mandatory HRDD will encompass. For now, one thing is clear; the EU shows strong determination to put an end to human rights abuses and environmental harm which result from corporation's activities to produce and/or commercialize goods and services on the EU territory.

Stay tuned! This is recurring news. We will monitor and report on the development of the EU Directive on mandatory HRDD in our next newsletters.

Do you have questions?

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