

SUBMISSION FROM ARISE
Business, Energy and Industrial Strategy Select Committee Inquiry:
Forced labour in UK value chains

Arise

Arise is an anti-slavery organisation headquartered in London and New York. We believe frontline organisations and their networks are a critical tool in the modern fight for abolition. We exist to provide frontline organisations and their networks with the help they need through strategic funding, training, network building and amplifying their voices.

Co-founded by John Studzinski CBE, Arise has been involved in the discussion around supply chains and transparency since we were founded. John Studzinski was co-chair of the Home Office's Business Against Slavery Forum, and, together with Baroness Young of Hornsey, led the part of the Independent Review of the Modern Slavery Act 2019 which focussed on supply chain transparency. Arise has striven to bring the voice and experience of frontline organisations to this essential area of policy.

XUAR alleged atrocities

In recent years many reports have been published detailing labour abuse, mass incarceration, forced sterilisation and child separation - among other egregious rights violations - inflicted upon the Uyghur people and other predominantly Turkic minorities in the Xinjiang Uyghur Autonomous Region (XUAR) of China. This submission focuses on alleged exploitation connected to modern day slavery.

XUAR Supply Chains

Within XUAR there are estimated to be well over one million¹ Turkic minority Muslims currently held in what the People's Republic of China calls 're-education camps'. The Australian Strategic Policy Institute estimates that 83,000 of these are living in conditions of forced labour.²

The XUAR region is central to the global supply and value chains of many companies³. For example, China is the largest producer of cotton in the world, and 84% of this cotton comes from XUAR⁴. Yet alleged forced labour in XUAR does not begin and end with the cotton industry. Giants such as Apple, BMW, Nike, Sony and others have been accused of profiting from Uyghur forced labour. As UK registered companies which trade in the UK, this raises

¹ For a discussion on the difficulties estimated the numbers of those extrajudicially detained, see: *More than 1 million Muslims are detained in China—but how did we get that number?* Quartz July 2019 <https://qz.com/1599393/how-researchers-estimate-1-million-uyghurs-are-detained-in-xinjiang/>

² Xu, et al *Uyghurs for Sale*, Australian Strategic Policy Institute, February, 2020 <https://www.aspi.org.au/report/uyghurs-sale>

³ *'Virtually entire' fashion industry complicit in Uighur forced labour, say rights groups* Guardian, July 2020 <https://www.theguardian.com/global-development/2020/jul/23/virtually-entire-fashion-industry-complicit-in-uighur-forced-labour-say-rights-groups-china>

⁴ Lehr, et al: *Connecting the Dots in Xinjiang: Forced Labor, Forced Assimilation, and Western Supply Chains* Centre for Strategic and International Studies, October, 2019 <https://www.csis.org/analysis/connecting-dots-xinjiang-forced-labor-forced-assimilation-and-western-supply-chains>

the possibility that these companies and others may be exposing UK consumers to complicity in systems of severe exploitation in Western China.

The relationship between supply chains and alleged atrocities

The severity of the situation faced by Uyghurs and others in XUAR has led experts to speculate that they may be subject to genocidal atrocities⁵. Allegations of forced prevention of births⁶, and family separation⁷ in XUAR may be grounds for genocide if undertaken with the intent to destroy “in whole or in part” a racial, ethnic or religious group. In addition, the use of modern slavery as a tool to ‘deliberately inflict[ing] on the group conditions of life calculated to bring about its physical destruction in whole or in part’ (Article II (c) of the UN Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)) is relevant. The allegation here is that the persecuted ethno-religious minority group - Uyghurs and others - are forcibly transferred and used for forced labour, often in dangerous conditions, and, more recently, without adequate protection during the COVID 19 crisis⁸, in a manner which is calculated to bring about their physical destruction in whole or part.

As a result, if these allegations are true, companies which source from XUAR are exposed to the dual risk of driving both modern slavery, and through it, the “crime above all crimes” - genocide.

Therefore, in addition to the need to address modern day slavery, a full treatment of this subject cannot avoid mounting evidence of mass atrocities, and the need to respond proportionately and appropriately.

UK Value Chain Guidance

Currently, the core legislative requirement for companies surrounding modern slavery and supply chains is in Section 54 of the Modern Slavery Act, 2015. This requires companies with a turnover of more the £36m to publish a modern slavery statement annually. Recently, the UK Government announced that a central repository for statements would be created together with “tough new measure” which have yet to be published in detail⁹. Many businesses have sought to engage sincerely with these statutory obligations, but there is no punitive legislation to address those which do not. Despite recommendations from Baroness Butler-Sloss and others that the 2015 Act should be strengthened to make non-compliant

⁵ Activists want UN to probe ‘genocide’ of China’s Uighur minority, Al Jazeera, September 2020 <https://www.aljazeera.com/amp/news/2020/9/15/activists-want-un-to-probe-genocide-of-chinas-uighur-minority>

⁶ China forcing birth control on Uighurs to suppress population, report says, BBC, June 2020 <https://www.bbc.co.uk/news/world-asia-china-53220713>

⁷ How Xinjiang’s Gulags Tear Families Apart, Economist October 2020 <https://www.economist.com/china/2020/10/17/how-xinjiangs-gulag-tears-families-apart>

⁸ Chaudry, *The Impact of COVID-19 on Uighur Muslims: An Ignored Crisis* April 2020 <https://blogs.lse.ac.uk/humanrights/2020/04/23/the-impact-of-covid-19-on-uighur-muslims-an-ignored-crisis/>

⁹ New tough measures to tackle modern slavery in supply chains, UK Government, September, 2020 <https://www.gov.uk/government/news/new-tough-measures-to-tackle-modern-slavery-in-supply-chains>

companies subject to disqualification penalties during the Independent Review into the Modern Slavery Act 2019¹⁰. This approach was not adopted by the government.

It has often been said by leaders in the supply chain transparency movement that eradicating exploitation should be core to business governance. One criticism of framing corporate regulation surrounding modern slavery within Home Office legislation is that it is said to encourage peripheral treatment of the subject by businesses. We have seen a tendency for companies to locate responsibility for producing modern slavery statements within Corporate Social Responsibility - or similar - departments. Rarely is exploitation within the supply chain something about which shareholders are given an account.

Many in the sector have consequently argued for a cross-departmental approach within government, with corresponding efforts to harmonise statutory guidance surrounding modern slavery with the wider regulatory environment. A cross-departmental approach was pursued for some time during the May administration, but it is now unclear who, if anyone, within government has responsibility for ensuring that this issue cuts across government.

For this reason, existing opportunities to tighten up regulation within the current regulatory environment are often missed.

Director disqualification

Currently, a director cannot be disqualified on the basis of human rights abuses within their supply or value chains. The current legislation, Company Directors Disqualification Act 1986 and Failed Companies, does not have scope to address modern slavery abuses. The Act requires that company directors “Ensure they/ the company complies with the law and all relevant regulations” ([here](#)) and this could be amended to include situations where companies fail to comply with modern slavery reporting requirements, or where they have failed to act on real suspicions or evidence of modern slavery abuses in their supply chains.

While this was recommended by the Independent Review of the Modern Slavery Act, the Government did not accept it. However, we believe that this should be re-visited as it is a powerful potential tool. BLAH

Recommendations:

1. There is the need for clear guidelines on value chains and the expectations on UK companies.
2. The terms for disqualification should be expanded to include the failure to fulfil modern slavery statements as a disqualifying offence under the Company Directors Disqualification Act 1986.
3. BEIS should, in conjunction with other government departments, draft clear guidelines on the responsibilities of British companies to monitor their value chains. This could incorporate elements of the French Duty of Vigilance Laws.

¹⁰ Independent Review of the Modern Slavery Act, Final Report, UK Government, May 2019 <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report>

4. BEIS should draft clear guidance, within projects such as the Future of Corporate Reporting, that require companies to report to shareholders on efforts to end modern slavery and other serious rights abuses within their value chains. This information could be required within their annual report, or other internal governance documents.
5. Audit and the reasonableness of its role where there is no real expectation of transparency
6. Consumer interest protection - rise in concern around this topic; BEIS take lead in highlighting the consumer aspect and informing the consumer of the corporation's responsibilities.
7. Publish modern slavery statements on Companies House - alongside the new database that the government announced.
8. Genocide determination.