



LAWYERS FOR  
UYGHUR RIGHTS

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Submission to to Conservative Party Human Rights Commission Inquiry into the Human Rights  
Situation in China

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1. This is a submission to the Conservative Party Human Rights Commission Inquiry on behalf of our clients Rahima Mahmut and Enver Tohti and the Uyghur and Turkic people in the Xinjiang Uyghur Autonomous Region.
2. This submission should be considered alongside our Communication to the United Nations Working Group on on the Issue of Human Rights and Transnational Corporations and other Business Enterprises which has also been submitted to the United Nations Special Rapporteur on Contemporary Forms of Slavery and the Special Rapporteur on the rights of Indigenous People. That Communication sets out how the Government has failed to honour their international commitments in refusing to take into account the participation of Huawei in the systematic oppression of the Uyghur and other Turkic people as well as the slavery in Huawei's supply chain.
3. This submission sets out the irrationality of the Government's position, on one hand holding itself out as an international leader in the prevention of slavery in business and calling on companies to exercise due diligence in their international operations but on the other refusing to consider the human rights implications of allowing Huawei to enter the United Kingdom's market to provide 5G infrastructure before making this decision.

## Facts in Regard to Forced Labour in Huawei's Supply Chain

4. On 29 March 2020 the Australian Strategic Policy Institute release a report entitled 'Uyghurs for Sale: *'Re-education', Forced Labour and Surveillance Beyond Xinjiang*' (Report No. 26/2020) authored by Vicky Xiuzhong Xu with Danielle Cave, Dr James Leibold, Kelsey Munro, Nathan Ruser available here

[https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2020-03/Uyghurs%20for%20sale\\_UPDATE-03MAR.pdf?HkDS1tkITXtpF7eZJQ4AdwXTejt3ZDtC](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2020-03/Uyghurs%20for%20sale_UPDATE-03MAR.pdf?HkDS1tkITXtpF7eZJQ4AdwXTejt3ZDtC)

5. The Report set out its findings in summary at page 3:

The Chinese government has facilitated the mass transfer of Uyghur and other ethnic minority citizens from the far west region of Xinjiang to factories across the country. Under conditions that strongly suggest forced labour, Uyghurs are working in factories that are in the supply chains of at least 83 well-known global brands in the technology, clothing and automotive sectors, including Apple, BMW, Gap, Huawei, Nike, Samsung, Sony and Volkswagen.

This report estimates that more than 80,000 Uyghurs were transferred out of Xinjiang to work in factories across China between 2017 and 2019, and some of them were sent directly from detention camps. The estimated figure is conservative and the actual figure is likely to be far higher. In factories far away from home, they typically live in segregated dormitories, undergo organised Mandarin and ideological training outside working hours, are subject to constant surveillance, and are forbidden from participating in religious observances.

Numerous sources, including government documents, show that transferred workers are assigned minders and have limited freedom of movement. China has attracted international condemnation for its network of extrajudicial 're-education camps' in Xinjiang.

This report exposes a new phase in China's social re-engineering campaign targeting minority citizens, revealing new evidence that some factories across China are using forced Uyghur labour under a state-sponsored labour transfer scheme that is tainting the global supply chain.

6. Specifically, in regards to Huawei the Report provides:
  - a. There is evidence that a thousand Uyghur's were transferred to the factories of a company called O-Film by the Hoatan Government. On O-Film's website the company claims to *'manufacture camera modules and touchscreen components for a number of other well-known companies including Huawei, Lenovo and Samsung'*(page 21 and 22);
  - b. *On 17 May 2018, 105 Uyghur workers were transferred from Keriya county, Xinjiang, to Hubei Yihong Precision Manufacturing Co. Ltd in Xianning, Hubei province. Hubei Yihong makes backlights and battery covers. It is a subsidiary of Dongguan Yidong Electronic Co. Ltd whose website claims that its end customers include Apple and Huawei* (page 24);
  - c. *In 2017 Hefei Highbroad Advanced Material Co. Ltd signed a contract with the Hotan government to take in 1,000 Uyghurs each year for the next three years, according to the company's vice president. Later that year, more than 500 Uyghurs from rural Guma county in Hotan Prefecture were transported to Hefei in Anhui province to begin work in Highbroad's electronics factory. According to the company's 2018 annual report,136 Highbroad's main products are components for flat panel displays—the LCD and OLED screens used in many smartphones, tablets and computers. Highbroad notes that 79.19% of its operating revenue comes from sales to the Beijing-based multinational company BOE Technology Group Co. Ltd which is one of the world's largest producers of electronic displays. BOE is currently a major screen supplier to Huawei... (page 25);*
  - d. *In the first 8 months of 2018, 1,554 workers were reportedly transferred from Awat county, Xinjiang, to factories in other provinces, including Sichuan Mianyang Jingweida Technology Co. Ltd. According to local media,218 Jingweida has supplied products and services to brands including ... Huawei* (page 35); and
  - e. *As reported in late 2019, 560 Xinjiang workers were transferred to work in factories in central Henan province, including to Foxconn Technology in Zhengzhou, Henan province. Foxconn Technology, a Taiwanese company, is the biggest contract electronics manufacturer in the world. Foxton has supplied Huawei.* (page 36).
  
7. Under the heading of 'Implication for the Global Supply Chain' (page 27) the Report states that:

*The rapid expansion of the nationwide system of Uyghur labour presents a new challenge for foreign companies operating in China. How do they secure the integrity of their supply chains and protect their brands from the reputational and legal risks of being associated with forced, discriminatory or abusive labour practices? Interwoven supply chains and the mixed nature of their workforces, which draw on both Han and Uyghur workers, make it particularly difficult for companies to ensure that their products are not associated with forced labour. These labour transfer schemes also present a challenge to the reputation of Chinese brands overseas.*

*In all, ASPI's research has identified 83 foreign and Chinese companies directly or indirectly benefiting from the use of Uyghur workers outside Xinjiang through potentially abusive labour transfer programs.... [including] Huawei.*

*Some brands are linked with multiple factories. The data is based on published supplier lists, media reports, and the factories' claimed suppliers. ASPI reached out to these 83 brands to confirm their relevant supplier details. Where companies responded before publication, we have included their relevant clarifications in this report. If any company responses are made available after publication of this report, we will address these online.*

*A further 54 companies are implicated in what could be forced labour schemes within Xinjiang itself (see appendix)—some of which overlap with the 83 companies linked to forced Uyghur labour outside of Xinjiang. It is important to note that not all companies have the same levels of exposure to Uyghur forced labour. Some finished products are directly manufactured by these workers, while others pass through complicated supply chains.*

*In the past three years, the 're-education camp' system in Xinjiang has drawn international condemnation. Now the culture and ethos of 're-education' is being exported well beyond Xinjiang and married with practices that likely amount to forced labour.*

*This report establishes that some workers employed through labour transfer schemes at factories across China are sourced directly from the 're-education camps' in*

*Xinjiang. Ethnic minority workers from Xinjiang who are not known to be former detainees may also be forced to work under threat of detention, the intimidation of family members and a range of restrictions on their freedom. The tainted global supply chain that results from these practices means that it is now difficult to guarantee that products manufactured in China are free from forced labour.*

*We have found that a large number of Chinese and multinational companies are sourcing components or products from factories that proudly boast about their Uyghur workers, such as Taekwang and HYP. This situation poses new risks—reputational and legal—for companies and consumers purchasing goods from China, as products made in any part of the country, not just in Xinjiang, may have passed through the hands of forced labourers. This situation also creates new risks for investors in those companies—from private investors to wealth management funds—who may now find themselves indirectly linked to forced labour practices.*

#### Facts in Regards to Huawei’s Facilitation of Crimes against Humanity and Torture and Possibly Genocide

8. There is evidence of Huawei providing the components used by the Xinjiang Autonomous Region Government, a Chinese Communist Party entity, in the intensive monitoring and unlawful detention in prisons and what has been described as concentration camps, of huge numbers of the Uyghur population.
9. In April 2019 the Australian Strategic Policy Institute release a report entitled *Mapping China’s Technology Giants* (Report No. 15/2019) authored by Danielle Cave, Samantha Hoffman, Alex Joske, Fergus Ryan and Elise Thomas, available here [https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2019-05/Mapping%20China%27s%20technology%20giants.pdf?EINwiNpste\\_FojtgOPriHtIFSD2OD2tL](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2019-05/Mapping%20China%27s%20technology%20giants.pdf?EINwiNpste_FojtgOPriHtIFSD2OD2tL)
10. In the Report it is set out Huawei’s participation in what ‘are often euphemistically referred to as ‘safe city’ projects’. The Report explains (page 10) that ‘An important and understudied part of the global expansion of Chinese tech companies involves the proliferation of sophisticated

*surveillance technologies and ‘public security solutions’. Huawei is particularly dominant in this space, including in developing countries where advanced surveillance technologies are being introduced for the first time.’ It is explained that through research the ASPI has ‘mapped 75 Smart City-Public Security projects, most of which involve Huawei’ and that these projects ‘include the provision of surveillance cameras, command and control centres, facial and licence plate recognition technologies, data labs, intelligence fusion capabilities and portable rapid deployment systems for use in emergencies.’*

11. The Report considers the use of the above technologies within China stating (page 16) that *‘Many of the repressive techniques and technologies that Chinese companies are implementing abroad have for a long time been used on Chinese citizens. In particular, the regions of Tibet and Xinjiang are often at the bleeding edge of China’s technological innovation.’* Specifically in regards to Xinjiang the report continues (page 16) *‘Chinese technology companies—including several of the companies in our dataset—are deeply implicated in the ongoing surveillance, repression and persecution of Uyghurs and other Muslim ethnic minority communities in Xinjiang.’*

12. In regards to Huawei specifically the report states:

*Huawei provides the Xinjiang Public Security Bureau with technical support and training....*

*The company’s work with Xinjiang’s public security apparatus also includes providing a modular data centre for the Public Security Bureau of Aksu Prefecture in Xinjiang and a public security cloud solution in Karamay. In early 2018, the company launched an ‘intelligent security’ innovation lab in collaboration with the Public Security Bureau in Urumqi. According to reporting, Huawei is providing Xinjiang’s police with technical expertise, support and digital services to ensure ‘Xinjiang’s social stability and long-term security’.*

13. The ASPI given further details of Huawei’s work in Xinjiang Autonomous Uyghur Region, <https://chinatechmap.aspi.org.au/#/company/huawei>, stating that:

*Huawei’s work in Xinjiang is extensive and the company works directly with the Chinese Government’s public security bureaus, and police forces, in the region. This*

*work is reported by China's state media, Huawei's corporate news and detailed by local authorities.*

*The announcement of one Huawei public security project in Xinjiang—made in 2018 through a government website in Urumqi—quoted a Huawei director as saying, 'Together with the Public Security Bureau, Huawei will unlock a new era of smart policing and help build a safer, smarter society.' In fact, some of Huawei's promoted 'success cases' are Public Security Bureau projects in Xinjiang, such as the Modular Data Center for the Public Security Bureau of Aksu Prefecture in Xinjiang. Huawei also provides police in Xinjiang with technical support to help 'meet the digitization requirements of the public security industry'*

*In May 2019, Huawei signed a strategic agreement with the state-owned media group Xinjiang Broadcasting and Television Network Co. Ltd at Huawei's headquarters in Shenzhen. The agreement, which aims at maintaining social stability and creating positive public opinion, also covered areas including internet infrastructure, smart cities and 5G.*

*In 2018, when the Xinjiang Public Security Department and Huawei signed the agreement to establish an 'intelligent security industry' innovation lab in Urumqi, Fan Lixin - a Public Security Department official - said at the signing ceremony that Huawei had been supplying reliable technical support for the department.*

*In 2016, Xinjiang's provincial government signed a partnership agreement with Huawei. The two sides agreed to jointly develop cloud computing and big-data industries in Xinjiang. As mentioned above, Huawei began to work in cloud computing in Karamay (a Huawei cloud-computing 'model city' in Xinjiang) as early as 2011 in several sectors, including public security video surveillance.*

*Huawei's 2014 "Safe City White Paper" said "Safe Cities" is an initiative led by the Ministry of Public Security to maintain social stability largely by building video surveillance systems. In 2014, Huawei participated in an anti-terrorism, Belt and Road Initiative-themed conference in Urumqi as 'an important participant of' a program called 'Safe Xinjiang' (code for a police surveillance system). Huawei was said to have built the police surveillance systems in Karamay, Kashgar and was praised by the head of Xinjiang provincial police department for its contributions in "Safe Xinjiang".*

*Huawei was reportedly able to process and analyse footage quickly and conduct precise searches in the footage databases (for example, of the colour of cars or people and the direction of their movements) to help solve criminal cases.*

14. Further In order to provide an update and further confirmation of Huawei's direct participation and assistance in crimes against humanity for the Working Group, Dr Adrian Zenz, Senior Fellow in China Studies Victims of Communism Memorial Foundation, has put together a document, **Huawei and Xinjiang – A Brief Assessment of Additional Evidence** dated June 2020 27 (**attached**) in which he states the following:

- a. In January 2020, Huawei again denied allegations of human rights violations in Xinjiang, stating that "We sell technology all around the world.... We don't know how our customers choose to operate it." Previously, in June 2019, Huawei claimed that the company does not directly do business with security services in Xinjiang. Both statements are falsehoods. The company does engage in business with the security services in Xinjiang, worked with them for years on dedicated, custom-made security solutions, and it even proudly advertises how they are being operated;
- b. In 2014, Huawei received an award from Xinjiang's Ministry of Public Security for its role in establishing citywide surveillance systems;
- c. In 2017, a government representative of Kashgar Prefecture, a Uyghur majority population region in southern Xinjiang, described the collaboration with Huawei in several areas, including public security, as "very close";
- d. A former Huawei engineer openly states in his resume that he worked for Huawei between July 2017 and September 2018 for the "Kashgar Public Security Surveillance and Video Link Network Project". This indicates direct and intimate collaboration with the security agencies for a specific, custom-tailored public security project;
- e. The deployment of Huawei's advanced surveillance technology in Kashgar is then subjected of a detailed brochure published by Huawei to advertise its technology and services for public security agencies throughout China;
- f. Further evidence of Huawei's collaboration with Xinjiang's security authorities, including a strategic research collaboration with the public security agencies in Urumqi have been described by others; and
- g. Fan Lixin, deputy director of Xinjiang's Ministry of Public Security, praised the collaboration with Huawei as fulfilling key goals of the region's domestic security strategy during the 13th 5-year plan.

15. Dr Zenz finishes by stating that *'we must conclude that Huawei is directly implicated in Beijing police state and related human rights violations in Xinjiang, and that it has lied to the public about this fact on at least two different occasions.'*
16. In summary, even on the easily available public information it would seem that Huawei is heavily involved in the security apparatus both in supplying the technology used in the systematic repression of the Uyghur people as well as in regards to the operation of that equipment and partnership in the provision of propaganda services.
17. The monitoring of the Uyghur people using technology which tracks individuals and can identify Uyghurs by their facial characteristics has been described as a 'digital gulag' and has resulted or assisted in a large proportion of the Uyghur population being illegally detained.
18. There is no doubt that the actions of the Chinese Government in Xinyang are contrary to international law provisions on the prohibition of torture as well as constituting crimes against humanity and possibly even genocide.<sup>1</sup>

#### Facts Showing the Government Domestic Commitments to Business and Human Rights and their Response to Criticism of their Huawei Position

19. In 2011, the UN Guiding Principles on Business and Human Rights ("UNGP") established the standards that need to be met by governments and businesses to address and remedy human rights abuses committed in business operations.
20. Guideline 9 of the UNP (Ruggie Principles) provides that *'States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.'*
21. In 2013, the UK Government committed to following these principles via the National Action Plan. s18 of the National Action Plan provides that 'The Government will do the following to reinforce its implementation of its commitments under Pillar 1 of the UNGPs:

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<sup>1</sup> <https://jamestown.org/wp-content/uploads/2020/06/Zenz-Internment-Sterilizations-and-IUDs.pdf?x60014>

- i. Continue to support the implementation of the UNGPs in other countries, including through the development of National Action Plans. This will create certainty, a level-playing field and a positive environment for UK business. We will lobby foreign states, including through ministerial contact and our embassies and high commissions, to support widespread international implementation of the UNGPs and other relevant international instruments including the ILO's Fundamental Principles and Rights at Work and the eight core Conventions which embody them, and the OECD Guidelines for Multinational Enterprises....
  - ii. Continue to ensure that UK Government procurement rules allow for human rights-related matters to be reflected in the procurement of public goods, works and services, taking into account the 2014 EU Public Procurement Directives and Crown Commercial Service guidance on compliance with wider international obligations when letting public contracts. In addition, UK public bodies are required to have due regard for equality-related issues in their procurement activity.
  
22. In regards to this understanding that the UK has committed itself to the principles of the UNDP Harriet Harman, Chair of the Joint Committee of Human Rights ahead of the 206-2017 evidence session stated *"In 2011, the UN Guiding Principles on Business and Human Rights established the standards that need to be met by governments and businesses to address and remedy human rights abuses committed in business operations. In 2013, the UK Government committed to following these principles via the National Action Plan, and in May this year it produced a report outlining the progress it has made..."*
  
23. In September 2017, the UK government spearheaded a Call to Action on Modern Slavery at the General Assembly. 85 countries have now signed up to this. In this call to action [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/759332/End-Forced-Labour-Modern-Slavery1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759332/End-Forced-Labour-Modern-Slavery1.pdf) it provides a number of declarations in regards to slavery including a commitment to *'Eradicate forced labour, modern slavery, human trafficking, and the worst forms of child labour from our economies (both formal and informal) by developing regulatory or policy frameworks, as appropriate, and working with business to eliminate such practices from global supply chains; whilst addressing government procurement practices, and building a culture of consumer awareness which supports such action and promotes decent work*

24. A year later in 2018, at the UN General Assembly, Australia, Canada, New Zealand, the UK and the USA made a joint public commitment to eradicating modern slavery from their global supply chains. Four Principles were agreed, harnessing a combined purchasing power of more than \$600bn central spending:

- i. Governments should take steps to prevent and address human trafficking in government procurement practice;
- ii. Governments should encourage the private sector to prevent and address human trafficking in its supply chains
- iii. Governments should advance responsible recruitment policies and practices
- iv. Governments should strive for harmonisation

25. On 27 March 2019 the International Conference on Tackling Modern Slavery, Forced Labour and Human Trafficking in Public Sector Supply Chains took place at Queen Elizabeth II Centre, London, UK,

[https://www.ethicaltrade.org/sites/default/files/shared\\_resources/Public%20Procurement%20Conference%20Report%20-%20Summary.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/Public%20Procurement%20Conference%20Report%20-%20Summary.pdf)

- a. This conference was co-hosted by the Ethical Trading Initiative, the UK government and the OSCE, in partnership with the Australian, Canadian, New Zealand, and USA governments.
- b. The International Conference on Tackling Modern Slavery, Forced Labour and Human Trafficking in Public Sector Supply Chains was a flagship forum to generate momentum on these commitments. It was designed to highlight examples of good practice, generate conversations among national and local governments, procurement specialists, supplier companies and civil society actors on how to translate principles into action, identify the policies, systems, skills and resources needed to make progress, and to build networks for greater collaboration.
- c. At the conference the following recommendations were arrived upon:
  - i. Procurement contract provisions must be monitored and enforced. Due diligence should be integrated into every stage of the procurement process, and the right incentives should be set in procurement criteria. Public bodies can inadvertently create unfair competition by not following up on contracts. It is important to reward suppliers who better manage risk, and to get rid of 'reverse auctions' or similar mechanisms that incentivize suppliers to take greater risks with their supply chains.

- ii. Increased collaboration is key 'Between procurement officials/teams: procurement professionals in a public body or company can work more closely with others in their organisations to ensure that commercial bids and contracting systems include requirements for transparency and evidence of preventing and mitigating modern slavery, forced labour and human trafficking risks in the goods and services they procure. They can also develop procurement partnerships to increase their leverage with suppliers, align systems and share lessons.
- iii. Public buyers need to move beyond passively receiving information and be more proactive in examining supply chains, pushing for remediation and supporting structural change in the private sector. There is a weak understanding of what due diligence entails in public procurement, and responsibilities for prevention and remediation of modern slavery have not been clearly articulated.

26. The Government put out a press release published 27 March 2019

(<https://www.gov.uk/government/news/government-leads-the-way-in-tackling-modern-slavery-in-public-procurement> ) which stated that 'Government leads the way in tackling

modern slavery in public procurement, The government has demonstrated its global leadership in confronting modern slavery issues after hosting an international conference on tackling the problem in public procurement. This press release states the following:

- d. As part of the conference, the Home Office launched a free Modern Slavery Assessment Tool, which will be available across the UK's public sector to 'provide organisations with a tailored report, based on an online questionnaire, indicating the risks of modern slavery being present in their supply chains, and providing recommendations to reduce those risks';
- e. A new online training course on ethical procurement, developed with the Chartered Institute of Procurement & Supply (CIPS), was also launched;
- f. In her speech, Minister for Crime, Safeguarding and Vulnerability, Victoria Atkins, highlighted the need for *'the UK and its international partners to harness their spending power to drive change. We all know that modern slavery, forced labour and human trafficking are not evils of the past. They are with us today and their victims are hidden in plain sight. We are doing more to leverage UK government procurement spend and take responsibility for the conditions in our supply chains, but we need the global public and private sector to do the same if we are to succeed. The best way we can do this is to work together so we can make more of an impact.*

g. Minister for Implementation Oliver Dowden said: *'The government is determined to tackle modern slavery throughout society, so it is only right that we work with our suppliers to address any traces there may be within our own supply chains. This is a moral imperative. We must remember that people are at the heart of this work and just one victim is one too many.'*

27. The Government issued a Procurement Policy Note on 18 September 2019 (current Government) Tackling Modern Slavery in Government Supply Chains Action Note PPN 05/19 ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/833280/Modern\\_Slavery\\_PPN\\_05\\_19\\_FINAL.docx..pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/833280/Modern_Slavery_PPN_05_19_FINAL.docx..pdf) ) This note sets out the following:

- i. The Government is committed to tackling the scourge of modern slavery; an umbrella term that encompasses the offences of slavery, servitude, forced and compulsory labour and human trafficking. Departments must take action to ensure modern slavery risks are identified and managed effectively in government supply chains;
- ii. The contents of this Procurement Policy Note (PPN) apply to all Central Government Departments...
- iii. In-Scope Organisations should begin to take action to apply this PPN to existing contracts, and to new procurement activity from 1 October 2019.
- iv. In-Scope Organisations must use the guidance 'Tackling Modern Slavery in Government Supply Chains' to identify and manage risks in both existing contracts and new procurement activity.
- v. The Government has made clear its determination to tackle modern slavery crimes, referring to them as "the great human rights issue of our time".
- vi. The Government has committed to voluntarily publishing a Modern Slavery Statement in December 2019, to mirror the requirements on businesses to publish statements under Section 54 of the Modern Slavery Act 2015. The Government statement will set out the actions taken, and plans in place, to identify, tackle and prevent modern slavery in central government supply chains.

28. The Guidance on 'Tackling Modern Slavery in Government Supply Chains' [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/830150/September\\_2019\\_Modern\\_Slavery\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830150/September_2019_Modern_Slavery_Guidance.pdf) runs to 46 pages. In the forward from the Government Chief Commercial Officer, Gareth Rhys Williams, provides that 'Modern Slavery has been described as the greatest human rights issue of our time' that they are 'committed to ensuring the suppliers with whom we do business understand the risks of modern slavery in supply chains, and take appropriate action to identify and address those risks, with particular focus on supporting victims of modern slavery.' He goes on 'we hope that this guidance will be an important tool in the Government's wider programme of work to tackle modern slavery and that they **expect the highest standards of business ethics from our suppliers and their agents**' and that 'Taxpayers expect that government's suppliers will behave in an ethical manner and we expect the highest standards of business ethics from suppliers and their agents in the supply of goods and services funded by the public purse.' The Guidance also provides the following:
- i. This guide is aimed at procurement and commercial practitioners at all levels who are operating in government; (page 4)
  - ii. Whilst there are laws in place which punish instances of modern slavery, government has the opportunity to use its extensive buying power to help mitigate the risks of it occurring in its supply chain by adopting new processes and procedures, in both procurement and supplier management (page 4)
  - iii. The mitigation of modern slavery risks should be considered throughout the procurement process. (page 7);
  - iv. If it is concluded '*that the discretionary exclusion ground applies, you can exclude the bidder from participation in the procurement, unless they can provide sufficient self-cleaning evidence*' (page 10);
29. The Guidance then goes through how modern slavery issues should be approached at the various stages of a procurement process. It provides that:
- a. At the specification stage the government department '*should use the data and intelligence gathered during early market engagement to take your own view on whether modern slavery is relevant to the subject matter of the contract and set your specification accordingly.*' (page 9)
  - b. '*grounds for discretionary exclusion may apply in relation to modern slavery issues*' (page 10);

- c. In regards to tender responses, the Guidance sets out a number of areas that tenders should be asked about (page 11);
- d. 'When evaluating the responses to your tender questions, evaluators should consider how the bidder will ensure workers are subject to fair work practices, receive fair pay and have opportunities to develop skill' (page 12);
- e. Special contract terms may be appropriate in high risk contracts; (page 13)
- f. '*Modern slavery is an issue that requires continuous focus and improvement and is reliant on effective supplier relationship management*' (page 14)

30. In its 'Procurement Policy Note –Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing' PPN 01/19 22 February 2019 ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780801/Procurement Policy Note 01 19 - Applying Exclusions in Public Procurement Managing Conflicts of Interest and Whistleblowing.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780801/Procurement_Policy_Note_01_19_-_Applying_Exclusions_in_Public_Procurement_Managing_Conflicts_of_Interest_and_Whistleblowing.pdf)) the Cabinet Office sets out that:

- h. The contents of this Procurement Policy Note (PPN) apply to all Central Government Departments, their Executive Agencies and Non Departmental Public Bodies;
- i. This PPN contains guidance and frequently asked questions to deepen understanding of the exclusion provisions in the Public Contracts Regulations 2015 and to supplement and strengthen existing practices
- j. The grounds for exclusion of bidders from public procurement procedures are set out in The Public Contracts Regulations 2015, ..... these rules set out the circumstances in which bidders must, or may, be excluded from a public procurement process for a variety of criminal offences and in other specific situations;

31. In the accompanying guide, Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing: A Guide for Commercial and Procurement Professionals ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780802/A Guide for Commercial and Procurement Professionals.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780802/A_Guide_for_Commercial_and_Procurement_Professionals.pdf)) it explains that there is a discretionary ground for exclusion under s57(8) of the Public Contracts Regulations 2015 '*Where the In-scope Organisation can demonstrate by appropriate means that the bidder is guilty of grave professional misconduct which renders its integrity questionable. E.g. wrongful conduct which impacts on the professional integrity of the supplier, for example convictions for sufficiently serious criminal offences not covered under*

*the grounds for mandatory exclusions, breach of ethical standards, or breach of contract which amounts to wrongful intent, gross negligence, anti-competitive behaviour, reach of intellectual property rights or violations of environmental or social obligations’.*

32. This Guide also provides that *‘Where the bidder is guilty of serious misrepresentation in supplying the information required for the verification of the absence of exclusion grounds or the fulfilment of the selection criteria; or has withheld such information or is unable to provide supporting documents required under Regulation 59.E.g. non-disclosure of grounds for exclusion, or inability to provide documentary proof in support of their self-certification it can then be rejected.*

33. Recent Government statements are also relevant for considerations, they include:

f. 20 January 2020, in an exchange in the House of Lords Baroness Warsi asked *‘Her Majesty’s Government what is their latest assessment of the treatment of Uighurs in China; and what representations they have made to the Government of China regarding such treatment.’* Lord Ahmad responded for the Government *‘we have deep and serious concerns about the human rights situation in Xinjiang, including the extrajudicial detention of more than 1 million Uighur Muslims and other minorities in what are called political re-education camps, systematic restrictions on Uighur culture and the practice of Islam, and extensive surveillance. We regularly raise these concerns with the Chinese authorities and at the United Nations. Most recently, the UK ambassador to China raised Xinjiang directly with the Vice Foreign Minister on 24 December 2019.’* In the same Lords exchange Lord Alton of Liverpool (crossbench peer) asked Lord Ahmad *‘should we not be desisting from business as usual with companies such as Huawei, Dahua and Hikvision; that is, funnelling British money into companies which are arms of a communist state responsible for egregious human rights violation’.* Lord Ahmad of Wimbledon responded *‘we are looking at introducing a sanctions regime’;*

g. On 23 January 2020 Baroness Helic asked the Government *‘what representations they have made to the government of China about reports that Uighur Muslims are being recruited for forced labour in Xinjiang; what assessment they have made of the risk that the supply chains of (1) UK, and (2) UK-based companies could include products manufactured using such forced labour; and what guidance they have given to UK and UK-based companies in this regard’.* Lord Ahmad responded on 3 February 2020 that

*'Reports indicating that forced labour is being used in Xinjiang adds to the growing body of evidence about the disturbing situation that Uyghurs and other minorities are facing in the region. We regularly raise concerns about Xinjiang at the UN and directly with the Chinese Government. We are also aware of the risks to supply chains in the UK and officials have discussed the issue with businesses and industry standard setting organisations. As set out in our online Overseas Business Risk guidance, businesses involved in investing in Xinjiang, with parts of their supply chains in Xinjiang, or with any other business involvement in the province should consider conducting appropriate due diligence to satisfy themselves that their activities do not support, or risk being seen to support, any human rights violations or abuses';*

- h. On 24 January 2020 Yasmin Qureshi asked the Foreign Secretary *'what steps his Department is taking to ensure that items for sale in the UK do not originate from sources that use forced labour; and which agency is tasked with investigating suspicions of slavery in supply chains'*. This question was answered by Heather Wheeler who was Under-Secretary\_of\_State\_for\_Foreign\_Affairs at the time, *'the UK Government is taking steps to ensure goods sold in the UK do not originate from sources that use forced labour. The Foreign and Commonwealth Office works closely with the Home Office in helping companies and industry stakeholders understand their risks overseas, and officials continue to monitor the situation in China. The Government is committed to the eradication of all forms of forced labour, modern slavery and human trafficking as set out in Sustainable Development Goal 8.7, and has made tackling modern slavery a foreign policy priority'*;
- i. 24 February 2020 Afzal Khan asked the Foreign Secretary *'what assessment his Department has made of the accuracy of allegations that equipment sold by Hikvision has been involved in human rights abuses against Uighur Muslims in China.'* To this questions Nigel Evans responded *'We are aware of reports linking Hikvision to the human rights situation in Xinjiang. We frequently raise our serious concerns about the situation in Xinjiang with the Chinese authorities and at the UN, and will continue to do so. Through our Overseas Business Guidance we encourage any UK business involved in investing in Xinjiang to consider conducting appropriate due diligence to satisfy themselves that their activities do not support, or risk being seen to be supporting, any human rights violations or abuses.'*
- j. 9 March 2020, In a written questions by [Lord Alton of Liverpool](#) he asked the Government: *'further to reports that Uighur detainees in Xinjiang are being used as*

*forced labour, what assessment they have made of Huawei's compliance with the Modern Slavery Act 2015; what consideration they have given to such compliance in regard to their decision to award contracts to Huawei; how they (1) assess, and (2) investigate, such reports; and what sanctions they can utilise in such cases?'* This question was answered by Baroness Williams of Trafford for the Government on 23 March 2020 who stated *'The UK Government expressed its concerns about China's systematic human rights violations in Xinjiang, including credible and growing reports of forced labour, during the recent UN Human Rights Council. The Government is committed to preventing modern slavery in the global economy, including in our own supply chains. We will shortly publish the first ever Government modern slavery statement and we have published guidance for commercial teams to assess the risk of modern slavery before, during and after contract award. We are developing a government-run registry of modern slavery statements to make it easier for consumers, investors and civil society to hold businesses to account. We have also consulted on proposals to strengthen the Modern Slavery Act and increase the quality and compliance of statements.*

- k. 9 March 2020 Lord Alton asked the Government *'what assessment they have made of reports that the government of China transferred Uighurs from detention centres to work in factories where products are produced for global brands; and what plans they have to take action against such companies under the provisions of the Modern Slavery Act 2015'*. Lord Ahmad responded on 18 March 2020<sup>2</sup> stating that *'Recent reports indicating that Uyghurs are being used as a source of forced labour add to the growing body of evidence about the disturbing situation that Uyghurs and other minorities are facing in Xinjiang;*
- l. 23 March 2020, David Linden asked the Secretary of State for Foreign and Commonwealth Affairs if *'he will make representations to his Chinese counterpart on (a) closing the re-education camps in Xinjiang and (b) protecting elderly people detained in those camps from covid-19'*. Nigel Adams responded for the Foreign Office stating *'We have consistently made clear our serious concerns about the human rights situation in Xinjiang, including the extra-judicial detention of over a million Uyghur Muslims and other minorities in "political re-education camps" and that 'On 10 March at the 43rd session of the UN Human Rights Council, the UK used its national statement to raise concerns about systematic human rights violations and reports of forced labour in Xinjiang. We continue to urge China to implement UN recommendations - to*

*end the practice of extra-judicial detention of Uyghurs and other ethnic minorities, and to allow UN observers unfettered access to the region’;*

- m. 23 March 2020, Lord Alton Asked *‘what action they will take against any company that has published an annual statement as required under section 54 of the Modern Slavery Act 2015 but has been accused of profiting from Uyghur slave labour’*. Baroness Williams of Trafford responded that *‘The Act does not require organisations to certify that their supply chains are slavery free but asks businesses to be transparent about their risks and measures taken to mitigate these. To improve reporting quality, we are developing a government-run registry of modern slavery statements to make it easier for consumers, investors and civil society to hold businesses to account. We have also consulted on proposals to strengthen the Modern Slavery Act and increase transparency and improve compliance. The Government is aware of the risks of forced labour in Xinjiang impacting on supply chains of businesses with a footprint in the UK and is discussing this issue with businesses, as well as standard setting and industry bodies which bring together business and civil society organisations. The UK Government expressed its concerns about China’s systematic human rights violations in Xinjiang, including credible and growing reports of forced labour, during the recent UN Human Rights Council’*;
- n. On 29 June 2020, in an emergency debate on China (<https://hansard.parliament.uk/Commons/2020-06-29/debates/513FEBBC-DB05-49FF-8903-B5FF88C4BD78/XinjiangUyghurs>) a number of questions were put to Nigel Adams, The Minister for Asia including the following:
- a. Ian Duncan Smith *‘To ask the Prime Minister whether his Government will make a statement on the mistreatment by the Chinese Government of Uyghurs in Xinjiang province’* to which the Minister responded *‘We are aware of reports issued today by the Associated Press and the Jamestown Foundation alleging that the Chinese Government are using pregnancy checks and forced intra-uterine devices, sterilisation and abortion to minimise Uyghur birth rates. These reports add to our concern about the human rights situation in Xinjiang and of course we will be considering the report carefully. The broader human rights situation in Xinjiang is of ongoing and serious concern to the Government. This includes the extrajudicial detention of over a million Uyghur Muslims and other minorities in political re-education camps, systematic restrictions on Uyghur culture and the*

- practice of Islam, and extensive and invasive surveillance targeting minorities..... In addition, we advise all businesses involved in investing in Xinjiang or with parts of their supply chains in Xinjiang to consider conducting appropriate due diligence to satisfy themselves that their activities do not support, or risk being seen to support, any human rights violations or abuses.
- b. Rob Butler (Aylesbury) (Con) 'Does my hon. Friend agree that if China is to play a leading role in the international community, it must quite simply abide by international laws and human rights?' to which he replied *'On a full Government review, our approach to China remains clear-eyed and is rooted in our values and interests. It has always been the case that when we have concerns we raise them, and that where we need to intervene we will. We have consistently led international efforts to highlight concern about the worsening human rights situation in Xinjiang, and I assure my right hon. Friend that the United Kingdom will continue to do so'*;
- c. Tom Tugendhat *'Will the Minister perhaps look at the companies operating here in the United Kingdom that may have benefited from some of the labour in Xinjiang that he described and explain why they are able to operate here in the UK? Why are they able to use labour from these camps for re-education, at best, and very often for worse? Why are these companies seemingly able to operate around the world as though they were ordinary companies?'* to which the Minister responded *'the decision on high-risk vendors did not involve the award of a contract to the telecommunications firm to which I assume the Chairmen of Select Committee may have been referring. We take this issue very seriously, and, as I said in my statement, all British companies involved in the region must consider carrying out proper due diligence to ensure that human rights violations have not been taking place in their supply chains, we need to ensure that British firms really do consider due diligence in their supply chains'*;
- d. Tim Loughton *'For more than 60 years, the Chinese regime has sought to snuff out the culture, religion, heritage and liberty of the Tibetan people, and more than a million Tibetans have lost their lives. Now we hear of even more sinister tactics to suppress the Uyghurs, beyond even the outrageous concentration camps we already know about: sterilisation and eugenics. What is the Minister doing to enable UK officials to gain access to Uyghur areas, where*

*they might find evidence of surveillance technology from Huawei aiding and abetting that suppression? Will he specifically take on the point made from the Opposition Front Bench about whether he, on behalf of the British Government, thinks that the measures meet the genocide criteria under article II(d) of the UN convention on the prevention and punishment of the crime of genocide’ to which the Minister responded ‘British diplomats visit the region periodically. Although access is not particularly easy, we do require to observe the situation first hand. British diplomats visited most recently in November 2019...’;*

- e. *Bob Seely ‘What will the Government be saying to Huawei about its ethical standards and about its alleged role in building an Orwellian surveillance state in Xinjiang and elsewhere? How on earth can Huawei be compliant with the ethical standards we expect in this country, and why are the Government still seriously considering having this company as a partner in our critical national infrastructure after this latest scandal?’ to which the Minister responded ‘There are credible reports of Huawei co-operating with security forces in Xinjiang. We understand that it provides IT and high-tech technology. On its participating in our 5G network, Her Majesty’s Government considered a full range of risks when making our decision on the use of high-risk vendors in the UK telecoms network’;*
- f. *Marion Fellows, ‘Given the question marks over that country, how can this Government, in good conscience, pursue a commercial agreement with Huawei—a company with direct ties to the Communist party of China?’ to which the Minister responded ‘We have always been very clear-eyed about the challenge posed by Huawei. She will be aware that, following the US announcement of additional sanctions against that company, the National Cyber Security Centre has been looking carefully at any impact that it could have on the UK’s networks. The Department for Digital, Culture, Media and Sport has received that advice and will respond in due course. She is right to raise serious concerns about the human rights situation in Xinjiang’; and*
- g. *Chi Onuwarah ‘The Minister talks vaguely about encouraging due diligence, but what will he do to enforce the elimination of human rights abuses from the technology supply chain?’ to which the Minister responded ‘The hon. Lady speaks with great knowledge of the sector. She must be aware that we have*

*made it absolutely clear to any British firm wishing to do business in that particular region that they must they apply due diligence—it is essential that they do so. We will continue to press UK firms in that regard, because it is the right thing to do’.*

34. The Overseas Business Risk as referenced above in response to questions (<https://www.gov.uk/government/collections/overseas-business-risk>) provides in regards to ‘Business and Human Rights’ that *‘In September 2013 the UK launched its action plan on business and human rights, becoming the first country to set out guidance to companies on integrating the UN Guidelines on Business and Human Rights into their operations. China is currently listed as a country of concern in the FCO’s annual Human Rights and Democracy Report.’*
35. In regard to Xinjiang the Overseas Business Risk provides that *‘We are seriously concerned about the credible reports of human rights violations and abuses in Xinjiang. Businesses involved in investing in Xinjiang, with parts of their supply chains in Xinjiang, or with any other business involvement in the province should consider conducting appropriate due diligence to satisfy themselves that their activities do not support, or risk being seen to be supporting, any human rights violations or abuses.’*

#### **Submissions**

36. It is submitted in regards to the Government’s decision to allow Huawei to play a part in the provision of infrastructure for the United Kingdom’s 5G network was made without taking into account the high risk of a breach of the prohibition of slave labour in Huawei’s supply chain or was made taking into account that risk but proceeded despite it.
37. In regards to allowing a company which is integral to the commission of breaches of *jus cogen* norms of international law such as breaches of the prohibition of torture and crimes against humanity it is submitted that this was in breach of the United Kingdom’s commitment to following the UNGP by adopting the National Action Plan.
38. Further, it is respectfully submitted that the Government’s position in the recent emergency debate on the treatment of the Uyghur people, where they were challenged by Conservative

party backbenchers and all other major parties, was irrational. The position seems to be that the Government is aware of Huawei's role in Xinjiang but that it is for individual companies to decide whether to do business with them. However, surely if the Government fully appreciates Huawei's role as an aider and abettor of crimes against humanity, and possibly event genocide, then the proper thing to do would be to refuse them access to providing 5G infrastructure within the United Kingdom. This position also does not accord with the United Kingdom, and this Governments statements and behaviour, in taking a leading role against slavery and forced labour in international business.

Michael Polak

Barrister,

Chair, Lawyers for Uyghur Rights

[m.polak@churchcourtchambers.co.uk](mailto:m.polak@churchcourtchambers.co.uk)

+44 741 519 1591

Dr Aris Georgopoulos

Professor in European and Public Law – Advocate,

Co-Lead of Research Unit on Public Procurement, Human Rights and Social Sustainability, PPRG, School of Law, University of Nottingham