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Joint civil society response to the Business, Energy and Industrial Strategy Committee report: 'Uyghur forced labour in Xinjiang and UK value chains.'

The BEIS Committee's report 'Uyghur forced labour in Xinjiang and UK value chains' was [published](#) in March 2021.

We welcome and agree with the Committee's conclusion that "companies selling to millions of British customers cannot guarantee that their supply chains are free from forced labour, and that modern slavery legislation and BEIS Department policy are not fit for purpose in tackling this serious situation".

As the Committee identifies, the Modern Slavery Act has not compelled businesses to take action to prevent or address modern slavery risks in their supply chains. The Committee notes that "the Modern Slavery Act... has not kept pace with changes in business supply chains... is out of date, has no teeth and we do not accept that businesses should be excused from doing basic due diligence to guarantee that their supply chains are fully transparent and free from forced labour and slavery".

As a group of civil society organisations, we support the Committee's conclusion that the Modern Slavery Act is not fit for purpose to ensure that companies are taking steps to address modern slavery risks in their supply chains. Current law and policy – including the Modern Slavery Act – have proved wholly inadequate to both prevent UK companies from contributing to human rights abuses in the Xinjiang Uyghur Autonomous Region, or to compel companies to address human rights abuses in their broader supply chains. Under current law, neither UK companies nor companies operating in the UK have a legal responsibility to take action to prevent human rights abuses in their supply chains. They face no legal obligation to undertake due diligence to ensure goods in their supply chain, including those they import into the UK, are not the products of forced labour.

In September 2020, the Home Office committed to introducing measures to strengthen the Modern Slavery Act. However, as the Committee states in the report, while Modern Slavery Act improvements "aim to compel businesses to take the necessary steps to ensure transparency in their supply chains, **they fall significantly short of requiring companies to guarantee that they are not complicit in modern slavery or other human rights abuses**".

The Transparency in Supply Chains Provision (TISC) is insufficient on its own to prevent forced labour. Under the Act, a company is 'required' – without any sanction in place for failure to comply - to report on the steps it has taken to address modern slavery risks in its supply chain; an estimated 40 per cent of eligible companies are not complying with the legislation at all. This reporting obligation is not a human rights due diligence obligation – namely, it does not compel companies to *take* meaningful steps to prevent or remedy modern slavery risks. A small group of leading companies are voluntarily conducting meaningful due diligence in their

supply chains. But the lack of a law mandating due diligence for all businesses places these leading companies at a competitive disadvantage.

The BEIS Committee's findings have alluded to this distinction between policy and practice, in noting that "many companies asserted that they have robust procedures for prohibiting human rights abuses while failing to undertake the necessary and basic due diligence procedures to know for certain that their supply chains are not implicated in slave labour or the abuse of minorities in China".

We therefore welcome the BEIS Committee's recognition of the need for **"a new policy framework that would oblige companies to prove they are not profiting from slave labour or face legal penalties"**

Our recommendation: new legislation to hold companies accountable for human rights abuses.

We urgently need a new law to hold companies to account when they **fail to prevent** human rights abuses and environmental harms – as recommended in 2017 by Parliament's Joint Committee on Human Rights and confirmed as legally feasible in 2020 by the British Institute of International and Comparative Law. Such a corporate duty to prevent law should be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the Bribery Act 2010. This law should mandate companies to undertake 'human rights and environmental due diligence' across their supply chains. It would thus expand and deepen the transparency in supply chains provision in the Modern Slavery Act - to go beyond reporting measures, and to expand coverage across all human rights abuses and environmental harms caused by business.

As the Independent Anti-Slavery Commissioner [noted](#) in 2020, under the law as it stands, "companies do not have to report abuses in their supply chains, however egregious, nor are they liable for them". However, mandatory human rights and environmental due diligence would "force companies to become more proactive in monitoring and safeguarding workers in their supply chains... if companies or sectors show no willingness to reform, the argument for making organisations liable for their decisions becomes increasingly compelling".

UK companies must be held accountable if they fail to prevent harmful human rights or environmental impacts in their supply chains. A law to ensure this should include effective and deterrent sanctions and liability provisions and provide for effective access to justice for victims. Such a law would require commercial organisations to conduct human rights and environmental due diligence - to identify and manage the risks that their activities pose - on an ongoing basis across their operations, subsidiaries and value chains. Commercial and other organisations to be included in this legislation include all businesses, no matter their size, nature or sector. It also includes public sector bodies, including those using public procurement and other public bodies providing financial and other support to businesses, such as export credit agencies, development agencies and development finance institutions.

There is an emerging and clear political, [legal](#) and [business](#) consensus on these issues, domestically and internationally. A 2019 [survey](#) of British business demonstrates that most businesses support new legislation due to anticipated benefits including increased legal certainty and a level playing field; mirroring business sentiment expressed [across Europe](#). Notably, in their responses to the BEIS and Foreign Affairs Committee inquiries, [Marks and](#)

[Spencer](#), [ASOS](#) and [Nike](#) all expressed the need for new UK legislation that requires companies to undertake human rights due diligence processes.

The Committee stated in the report that it is “**worried that Ministers are not exploring all possible avenues for action** despite the urgency of the situation in Xinjiang”. A new law would provide a stronger, overarching approach to tackling irresponsible business conduct across all human rights and environmental risks, based on existing UK legal provisions already familiar to business.

Tangibly, to address forced labour and other abuses of Uyghurs, such a law would compel companies to identify, prevent, mitigate and account for human rights abuses caused, contributed to or directly linked to their operations, products or services in Xinjiang and in other Chinese provinces - in line with the UN Guiding Principles on Business and Human Rights. Failure to prevent identified harms could result in legal liability for companies.

If the UK wishes to remain a leader on business and human rights, and ensure UK businesses are not complicit in Uyghur forced labour in the Xinjiang Uyghur Autonomous Region, it must now introduce a [new law](#) to mandate due diligence for all human rights and environmental impacts, which would hold companies liable for their failure to prevent harm.

As well as tackling business-related human rights abuses through a failure to prevent law, the government should consider introducing specific measures, to tackle abusive purchasing practices that if unchecked will result in human rights abuses in supply chains.

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