

**Written evidence submitted by the Foreign, Commonwealth and Development Office
(XIN0059)**

Inquiry Xinjiang Detention Camps

Introduction

1. There is compelling evidence of widespread and systematic human rights violations taking place in Xinjiang, including the extrajudicial detention of over a million Uyghurs since 2017. Satellite imagery suggests that the Chinese authorities continue to construct internment camps and demolish mosques and other religious sites. Systematic restrictions on Uyghur culture and religion remain widespread, and there is extensive and invasive surveillance targeting minorities. There is also credible evidence of forced labour both within and beyond Xinjiang, and of the forced suppression of births.

2. The UK has responded to this growing body of evidence by leading international efforts to hold China to account in the UN Human Rights Council and UN Third Committee. The number of countries supporting formal joint statements in these multilateral fora continues to increase, with 39 countries supporting the most recent statement at the UN Third Committee on 6 October 2020. The breadth of international concern demonstrated by these statements, increases the reputational cost to China of continuing with its policies in Xinjiang and places direct pressure on China to comply with UN recommendations. The fact that China receives significant support from other countries at the UN and is a permanent member of the Security Council, limits the scope for other forms of multilateral action.

3. There is rightly an increased focus on Xinjiang's place in international supply chains, and the risk that international businesses may be inadvertently contributing to human rights violations in Xinjiang. Through the 2015 Modern Slavery Act (MSA), export controls, HMG guidance, and engagement with business, HMG has a range of tools to address the issue of forced labour, and other human rights violations or abuses in UK supply chains. HMG is assessing how these tools can be deployed best to protect UK equities. A recent review of the MSA, and the subsequent announcement of a series of measures to strengthen the Act (informed by public consultation), is one example of an acknowledgement that there is more to be done to effectively address these risks.

How can the UK use organisations and agreements such as the UN Human Rights Council and the Genocide Convention to influence China towards better human rights practices?

4. The UN Human Rights Council (HRC) and the UN Third Committee were created to allow the global community regular opportunities to hold countries to account for human rights violations. They provide a platform for the UK and its partners to demonstrate the breadth and depth of international concern about the human rights situation in China, including in Xinjiang.

5. In October 2019, the UK's Permanent Representative to the UN read the first formal joint statement on Xinjiang at the UN Third Committee on behalf of 23 countries. At the HRC in June, the UK read a further joint statement on Xinjiang and Hong Kong on behalf of 28 countries. Most recently, at the UN Third Committee on 6 October 2020, the UK played a crucial role in lobbying for and then joining a statement read by Germany on behalf of 39

countries, expressing deep concern about the situation in Xinjiang, Hong Kong and Tibet. These statements made a number of specific demands on China including to end arbitrary detention, and to allow UN observers unfettered access to Xinjiang.

Table 1: Growing support for statements expressing concern at China’s approach to Xinjiang in the UN			
	UN3C Oct ‘19	UNHRC June ‘20	UN3C Oct ‘20
Number of countries	23	28	39

6. The UK has also used its national statements at the UN Human Rights Council to raise concerns about Xinjiang. We have consistently raised the issue in national statements since 2017. Most recently, on 25th September 2020, the UK dedicated its entire Item 4 national statement at the HRC to our concerns about Xinjiang and Hong Kong. This is only the second time the UK has dedicated such a statement to a single country. We have also used other multilateral groupings, such as the Alliance for Religious Freedom or Belief, to raise Xinjiang.

7. We judge that this multilateral action, supported by an increasing number of countries, is an effective way to impose a reputational and diplomatic cost on China for pursuing its egregious policies in Xinjiang. China protests strongly at this public criticism and lobbies hard against it. A further objective of this multilateral action is to discourage other countries from implementing a similar approach to that adopted by China in Xinjiang.

8. In response to international pressure, China has been forced to change its narrative on Xinjiang: in 2018 it belatedly acknowledged the camps’ existence following a period of outright denial; in December 2019 it claimed, with no evidence, that all of the “students” had “graduated”. China also continues to expend significant effort on propaganda to justify its policy in Xinjiang, demonstrating its sensitivity to public criticism. The number of damaging leaks from within the Chinese system may be evidence of growing concern across the bureaucracy.

9. Nonetheless, recent satellite imagery and analysis suggests that the construction of camps and the destruction of religious sites continues. While continuing to deny that practices such as forced labour, and forced birth control are occurring, the Chinese authorities have repeatedly made clear that they believe their policies in Xinjiang have been effective in tackling the threat from extremism, citing the absence of terrorist attacks in the region since 2016. The Chinese leadership prioritises control over human rights and rejects all criticism of its domestic policies as ‘foreign interference’.

10. China continues to command significant support in the UN’s human rights bodies. In response to each of the three joint statements delivered by the UK and likeminded partners, China has co-ordinated counter statements in support of its policies. Though the number of countries supporting these counter statements has declined in the past year (from 56 in October 2019 to 45 in October 2020) it remains high. This support limits the scope for action beyond joint statements in the UN’s human rights bodies.

11. In respect of the Genocide Convention, it is the longstanding policy of the UK Government that given its specific status as a crime in international law, a determination of

genocide can only be made by a competent court. China also has a reservation on the Genocide Convention such that it is not bound by Article IX, which permits one State party to submit a dispute with another relating to the interpretation, application or fulfilment of the Convention to the International Court of Justice.

Where these mechanisms prove ineffective, what other international laws and agreements can be used effectively for atrocity prevention?

12. States must uphold their international legal obligations to prevent atrocity crimes within their jurisdiction. Atrocity crimes are often referred to as including crimes against humanity, war crimes, and genocide. A number of international crimes are prohibited by international law, either through States' treaty obligations or by customary international law.

13. For example, with respect to war crimes, States Parties to the Geneva Conventions must enact legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, grave breaches of those Conventions – as well as search for people alleged to have committed such breaches, and try them or extradite them. Those Conventions apply in circumstances of armed conflict.

14. States Parties to the Genocide Convention also undertake to prevent and to punish genocide, as a crime under international law, and the International Criminal Court's Rome Statute also brings crimes against humanity under that court's jurisdiction in certain circumstances.

15. The United Nations Security Council (UNSC) has in the past exercised its powers under Chapter 7 of the United Nations Charter where it has determined that the situation within which atrocity crimes appear to have been committed constitutes a threat to international peace and security – such as in respect of Rwanda and the former Yugoslavia, where the Security Council established two *ad hoc* international Tribunals.

16. In addition to the Genocide Convention, other instruments include the Rome Statute of the International Criminal Court, and the International Covenant on Civil and Political Rights. However, China is either not party to, or has material reservations on these key international instruments thereby limiting the scope of action in applying these mechanisms to the situation in Xinjiang. Where China is a party or has no material reservations on these international mechanisms, unanimous UNSC agreement is required to apply them.

How can the UK use its influence on countries other than China who are complicit in the persecution of Uyghurs?

17. We are aware of cases of China pressuring third countries to return Uyghurs seeking refuge. Since 2014 there have been media reports of countries deporting Uyghurs back to China. In third countries, British diplomats - working closely with likeminded partners - have intervened privately at senior levels with host governments on behalf of Uyghurs who have been at risk of refoulement to China. These interventions have had positive results. The sensitive nature of these individual cases, and associated diplomatic exchanges, makes it inappropriate to provide further details.

18. The UK has repeatedly called on countries to respect the obligation of not forcing persons to return to a country where there are substantial grounds for believing that the person would be in danger of fundamental rights violations.¹

19. The UK's action in multilateral fora and our bilateral diplomatic engagement aims to raise international awareness of human rights violations against the Uyghurs in Xinjiang. This supports our specific lobbying efforts to prevent refoulement.

What mechanisms can the Government use to discourage private sector companies from contributing to human rights abuses?

20. The UK is committed to working with private companies to prevent human rights violations or abuses. This includes setting out clear expectations of UK businesses' conduct; preventing the export of goods that could be used for human rights abuses; and mandating greater transparency from businesses so consumers, investors and campaigners can hold them to account. Our engagement with businesses and industry stakeholders, suggest that an increasing number of companies recognise the merit of taking tangible steps to ensure respect for human rights throughout their operations, supply chains and services.

Government guidance to businesses on Xinjiang

21. The Foreign Secretary and FCDO Ministers, including Minister Adams and Lord Ahmad, have repeatedly used debates and high profile statements in Parliament to draw attention to our concerns about forced labour in Xinjiang, and urge all businesses involved in investing in Xinjiang, or with parts of their supply chains in the region, to conduct 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. The FCDO and DIT also issue specific advice to UK businesses in HMG's Overseas Business Risk guidance.

UN Guiding Principles on Business and Human Rights

22. The UN Guiding Principles (UNGPs) on business and human rights are an authoritative global standard for preventing and addressing the risk of adverse human rights impacts with business. These call on States to protect human rights in the business context, on businesses to respect human rights, and on States and businesses to ensure that avenues of remedy - judicial and non-judicial - are available to those affected when human rights abuse occurs. The UK was the first State to implement the United Nations Guiding Principles by publishing a National Action Plan (NAP). The NAP was updated in 2016 to reflect progress made and developments since 2013.

23. Our NAP to implement the UNGPs sets out our expectation that UK businesses should respect human rights across their operations and their international supply relationships. The plan sets out expectations of UK businesses' conduct, including compliance with relevant laws and respect for internationally recognised human rights; treating as a legal compliance issue the risk of causing human rights abuses; adopting appropriate due diligence policies to identify, prevent and mitigate human rights risks; and consulting people potentially affected in project design and implementation.

¹ See, for example, Article 33 of the 1951 Convention Relating to the Status of Refugees (Refugee Convention) and Article 3 of the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Export licencing

24. It is also important to ensure that UK businesses do not contribute to human rights violations or abuses through the export of goods that may be misused. All export licences are assessed, not only against the arms embargo that prohibits ‘any equipment which might be used for internal repression’, but also against our strict Criteria, including the possibility of diversion or internal repression.

The Modern Slavery Act

25. The Government takes a “transparency in supply chains” approach on human rights and modern slavery, promoting a business culture where businesses are transparent about what their risks are, where they have found human rights/modern slavery abuses in their operations and supply chains and the action that they have taken in response. Greater transparency from businesses allows consumers, investors, campaigners and others to hold them to account.

26. With the Modern Slavery Act in 2015 the UK became the first country to require business to report how they identify and address modern slavery risks in their operations and supply chains. The Government continues to strengthen its approach, and following an Independent Review of the Modern Slavery Act, the Home Office ran a public consultation on a range of proposals to strengthen the Transparency in Supply Chains legislation.

27. On 22 September 2020 the Home Office published its response to this consultation and announced plans to strengthen the Act and the transparency in thousands of business and public body supply chains by: extending the reporting requirement to public bodies with a budget of £36 million or more; enhancing business transparency and comparability by requiring organisations to publish their statement on the new Government digital reporting service; mandating the specific reporting topics statements must cover; and, setting a single reporting deadline on which all modern slavery statements must be published. These measures will require legislative change and will be introduced as soon as Parliamentary time allows. In doing so HMG acknowledges that more action is required to address the pervasive problem of modern slavery, and underlines its commitment to enhancing our response.

Additional measures

28. The Government is a signatory to the OECD Investment Declaration. The UK promotes awareness of the OECD guidelines for multinational enterprises – which cover human rights concerns – and has a dedicated complaints mechanism (the UK National Contact Point) providing a non-judicial form of remedy to make a complaint about any company that they consider is breaching the guidelines. The Contact Point also raises awareness of the OECD guidelines with businesses, trade unions, and non-governmental organisations.

29. HMG also supports private sector initiatives to encourage businesses to account for human rights, such as the Corporate Human Rights Benchmark (CHRB), an international initiative to rank corporates in certain sectors by their human rights performance. The CHRB initiative looks at companies with headquarters across the globe, including companies headquartered in China.

30. The above issues are dealt with in greater depth in written evidence provided by BEIS to the BEIS Select Committee inquiry into the use of forced labour in UK value chains.

How can UK-linked businesses with operations in Xinjiang be made accountable for any involvement in human rights abuses?

What HMG expects

31. The UK's NAP on business and human rights sets out our expectation that UK businesses should respect human rights – including treating the risk of causing human rights abuses as a legal compliance issue and adopting appropriate due diligence policies to identify, prevent and mitigate human rights risks.

Government Guidance

32. In addition to the Overseas Business Risk guidance to advise businesses referenced above, FCDO officials have been meeting businesses and industry stakeholders regularly to make them aware of the scale of the forced labour issue in Xinjiang. This has also allowed us to raise the ethical hazards of inadvertently contributing to human rights violations or abuses in Xinjiang and the difficulties of conducting due diligence. Engagement also allows us to better understand how HMG can support UK businesses to respond to the violations or abuses in Xinjiang.

33. Technology enabled human rights in Xinjiang is another area of concern for the government. We are aware that a number of Chinese technology companies, linked to supplying such technologies to Xinjiang authorities, have a UK market presence. In March, DCMS hosted the 'China Digital and Tech Conference' to promote collaboration with Chinese technology companies that is well-informed and appropriately appraised of the tools available to mitigate risk.

Increasing pressure to act over Xinjiang

34. Consumer opinion and reputational considerations can play an important part in influencing corporate behaviour. HMG has financed projects to better understand and increase awareness of how international supply chains may be contributing to human rights violations or abuses in Xinjiang. For example, the FCO part-financed the report by the Australian Strategic Policy Institute (ASPI) "Uyghurs for Sale", published in March 2020, which set out how forced Uyghur labour was being used in factories. Using case studies of three multinational companies' supply chains ASPI found that Uyghurs were being forced to work in factories that are in the supply chains of over 80 well-known global brands in the technology, clothing and automotive sectors. A number of companies conducted a review of their supply chain as a direct response to the report and some have pulled out of Xinjiang altogether.

What is the best form of support to offer to members of the Uyghur diaspora (and others) who are experiencing persecution and harassment abroad?

35. There are numerous reports of members of the Uyghur diaspora - including in the UK - being harassed by the Chinese authorities in an effort to intimidate them into silence, force them to return to China, or co-opt them into providing information on other Uyghurs. HMG regards such activity as unacceptable, and in respect of Uyghurs in the UK, we have raised our concerns directly with the Chinese Embassy in London. The FCDO continues to monitor

the situation closely and, in addition to raising the issue on diplomatic channels, where appropriate, we urge those affected to contact the police.

How can the UK support the promotion of knowledge and transparency about this issue, both within China and internationally?

36. The UK is working to increase the evidence base and raise international awareness of the human rights situation in Xinjiang. As well as our actions in multilateral fora we are funding think-tank research, engaging in diplomatic activity to raise awareness among third countries, and engaging the media, business, civil society, academic and other stakeholders to share information and promote knowledge of China's human rights violations. As noted elsewhere in this evidence, rigorous independent research is particularly important in efforts to increase transparency and hold China to account.

37. Diplomats from the British Embassy in Beijing regularly visit Xinjiang, most recently in October 2020. These visits have consistently corroborated first-hand reporting from media and civil society. This includes the extreme pressures on religion and culture in the region, including the destruction of mosques and cemeteries, and the extensive security apparatus operating in Xinjiang, including over a dozen suspected 're-education camps'. In third countries, British diplomats have heard from organisations directly assisting those who have left Xinjiang, including victims of forced sterilisation. We share our analysis and engage with partners - including many who are unable to visit Xinjiang or even China.

38. Inside China, our efforts on promoting transparency about Xinjiang have faced greater difficulties. The Chinese authorities operate one of the most severe systems of censorship and media control in the world. The British Embassy in Beijing's social media accounts are routinely censored, with posts either disappearing entirely or being subjected to restrictions on the ability of netizens to 'like' or 'forward'. Owing to many international outlets inside China being blocked by the "Great Firewall", most ordinary Chinese citizens are not able to access information about the situation in Xinjiang, other than that which has been officially sanctioned by the Chinese authorities. Within these severe limits the FCDO will nonetheless continue to seek creative ways to increase awareness in China.

How effective is the FCDO's current approach to atrocity prevention, and how can it be restructured to maximise the UK's impact in this area?

39. In 2018 and January 2019, we provided evidence to the Foreign Affairs Select Committee Inquiry on the Responsibility to Protect (R2P) and Humanitarian Intervention which details the UK's approach to atrocity prevention. More details can be found in a paper we published in 2019: <https://www.gov.uk/government/publications/uk-approach-to-preventing-mass-atrocities/uk-approach-to-preventing-mass-atrocities>. Our cross-government approach combines diplomacy; humanitarian, development and programmatic support; and defence and policing tools to help prevent mass atrocities. UK concerns are raised bilaterally with countries of concern, through the United Nations as the primary organisation for the maintenance of international peace and security, and other multilateral and international organisations and international fora.

40. The creation of the Foreign, Commonwealth and Development Office (FCDO) presents us with an opportunity to identify where we can strengthen our international efforts on reducing conflict and instability, including atrocity prevention, in order to maximise our

impact abroad. Our work on conflict and atrocity prevention will draw on the expertise of over 100 accredited conflict and humanitarian advisers in the new Department. The findings of the Integrated Security, Defence and Foreign Policy Review will propose fresh ideas to shape the objectives and systems of the FCDO, reflecting a drive towards a more effective and more joined-up foreign policy.

41. External contributions from Civil Society and others have been welcomed as part of the Review that is under way.

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