

Written evidence submitted by Dr Joanne Smith Finley (XIN0084)

Self-introduction:

My name is **Dr Joanne Smith Finley**. I joined Newcastle University in January 2000, where I am Reader in Chinese Studies. My research interests have included the evolution of identities among the Uyghurs of Xinjiang, NW China, and in the Uyghur diaspora; strategies of symbolic resistance in Xinjiang; Uyghur women between Islamic revival and Chinese state securitization of religion; PRC counter-terrorism measures in Xinjiang as state terror; and political “re-education” in Xinjiang as (cultural) genocide. I am author of “Why Scholars and Activists Increasingly Fear a Uyghur Genocide in Xinjiang,” *Journal of Genocide Research*, 2020 (DOI: [10.1080/14623528.2020.1848109](https://doi.org/10.1080/14623528.2020.1848109)), “China’s Neo-Totalitarian Turn and Genocide in Xinjiang” (<https://www.societyandspace.org/articles/chinas-neo-totalitarian-turn-and-genocide-in-xinjiang>), “Securitization, Insecurity and Conflict in Contemporary Xinjiang: Has PRC Counter-Terrorism Evolved into State Terror?” *Central Asian Survey*, 2019 (DOI: [10.1080/02634937.2019.1586348](https://doi.org/10.1080/02634937.2019.1586348)), and *The Art of Symbolic Resistance: Uyghur Identities and Uyghur-Han Relations in Contemporary Xinjiang* (Brill Academic Publishing, 2013); and co-editor of *Language, Education and Uyghur Identity in Urban Xinjiang* (Routledge, 2015) and *Situating the Uyghurs Between China and Central Asia* (Ashgate, 2007). Based on three decades of expertise in Uyghur studies, I write occasional op-eds for the international media (e.g. <https://www.chinafile.com/reporting-opinion/viewpoint/now-we-dont-talk-anymore>) and give frequent interviews to investigative journalists, documentary filmmakers, and radio and television broadcasters. I serve as expert country witness in Uyghur asylum cases in the UK, Europe, the US and Canada, and advise legal firms, refugee support organizations, government departments, non-governmental organizations, think tanks, and investment firms (re: due diligence).

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I am happy for the Foreign Affairs Committee to publish any aspect of my below submission openly under my name.

Evidence

- 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?

The UK needs to lobby for reform of the UN Human Rights Council, in my view, to prevent countries with extremely worrying human rights records (e.g. China, Russia, Saudi Arabia) from being elected on to that body. China in particular is trying to gain influence and control over the UNHRC, and several other UN mechanisms, in order to advance its own version of “human rights with Chinese characteristics” (which focuses only on very basic rights such as the alleviation of absolute poverty) and its preferred authoritarian system of governance (which relies on the principle of non-interference in another country’s domestic affairs, and thus renders the UN remit null and void). In a UK Parliamentary debate on China’s Policy Towards the Uyghurs, held on 12 October 2020, Stephen Kinnock MP asked whether the UK would publicly

oppose China's election to the United Nations Human Rights Council during that week. He was told by Nigel Adams (FCDO) that "we never comment on voting in UN elections, which are conducted by secret ballot." This reluctance to comment is severely damaging and a grave error, in my view.

The UN Convention on Genocide (1948) is widely considered to be unfit for purpose, given its too-narrow focus on physical genocide, and the fact that it does not sufficiently recognise Raphael Lemkin's broader conception of cultural genocide (the destruction of the foundations of the culture and identity of an ethnic group).

The Convention is also often criticised by legal scholars and genocide scholars for being mobilised – and mobilizable – only *after the event*, i.e. after the genocide has already taken place, owing to its unreasonable demand for evidence, and especially for evidence of intent (which is almost impossible to procure and prove).

The Convention is difficult to apply in China's case for 2 reasons: 1. China is not signed up to the Rome Statute of the International Criminal Court (ICC); and 2. While China is a signatory to the UN Convention on Genocide, it has lodged a Reservation against Article IX of that Convention, namely, that it does not recognise the jurisdiction of the International Court of Justice (ICJ) over the interpretation of the Convention. This arguably makes China's signing of the Convention meaningless.

That said, if a large number of influential governments around the world, on a multilateral not unilateral basis, pass Resolutions that publicly and explicitly acknowledge that what is happening to the Uyghurs in Xinjiang is a genocide or at least a series of crimes against humanity, then this will put a lot of pressure on the Chinese government, which cares very much about its image on the global stage, and wants to be seen as a contemporary global leader.

The Foreign Affairs Committee could, for example, follow the lead of the Subcommittee on International Human Rights of the Canadian Parliament, which recently became the first to call rights violations currently occurring in Xinjiang a "genocide" (see: <https://www.ourcommons.ca/DocumentViewer/en/43-2/SDIR/news-release/10903199>).

The FAC could also take action similar to the European Parliament's Resolution on 16 December 2020 condemning China's use of Uyghur forced labor, and calling for Member States to evaluate sanctions for Chinese officials and entities responsible for systematic human rights violations in Xinjiang (https://www.europarl.europa.eu/doceo/document/RC-9-2020-0432_EN.html).

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

As suggested in July 2020 by the Bar Human Rights Committee of England and Wales (BHRC) (see its report here: https://www.barhumanrights.org.uk/wp-content/uploads/2020/07/2020-Responsibility-of-States-to-Uyghurs_Final.pdf), UN member states could make effective use of the UN Convention on the Elimination of Racial Discrimination (CERD), on which China has placed no reservation, to hold

China to account for practices in Xinjiang that amount to racial apartheid and persecution of Turkic Muslims.

The BHRC report also advocates the creation of international bodies to investigate and use “all available offices and legal means” to prevent violations against Uyghur and Turkic Muslim populations, and to investigate, apprehend and punish alleged perpetrators. I agree that it is very important that such bodies adopt a multilateral approach to holding China to account, and would advocate that those bodies endeavour to include not only wealthy Western liberal democracies but also states from the Global South, whose favour China has been actively currying and securing for many years via a politically motivated process of “loan diplomacy” – providing loans and aid to developing countries of the world (African, Latin American, Central Asian, Southeast Asian and Middle Eastern nations) in exchange for their loyal support when e.g. China’s human rights record is attacked (See: the 2 competing sets of letters from member states at the UN in 2020, some decrying China’s actions in Xinjiang, while others supported those actions as “de-radicalisation” efforts!) The reason why Muslim-majority nations have been strangely silent on the Uyghur issue is that many have become members of the Chinese-led Asian Infrastructure Investment Bank, or else are benefitting from Chinese investments and loans as participants in the Belt and Road Initiative (BRI). For others, China is a key market for commodities (palm oil and coal from Southeast Asia; oil and natural gas from the Middle East).

IPAC (Inter-Parliamentary Alliance on China) may be a good multilateral mechanism through which to stand up to China and demand that China desist from human rights abuses; but, as it stands, it needs to try to include more African, Asian and Middle Eastern members among its ranks.

Similarly, something like the D-10 Strategy Forum of the Atlantic Council could prove a good multilateral mechanism to lever pressure on China, but it needs to avoid being too US-led. Currently, this includes policy planning officials and strategy experts from Australia, Canada, France, Germany, Italy, Japan, South Korea, the United Kingdom, the United States, and the European Union, but it could also work to better incorporate Asian democracies such as India and Indonesia, who so far have participated in the Forum’s work only as observers.

At the national level, states could impose “Magnitsky-style” sanctions¹ (known as Global Human Rights Sanction Mechanisms in the EU and UK contexts) on state and non-state individuals suspected of involvement in human rights abuses in Xinjiang, although arguably this is mainly a symbolic act, which would affect only the personal finances and opportunities for global mobility of a handful of alleged perpetrators of genocide, rather than bringing either them, or the state that ordered the acts, properly to justice.

¹ Declared in the US by Executive Order on 20 December 2017, Global Magnitsky Sanctions refer to powers to impose financial sanctions and visa restrictions on persons determined to be responsible for or complicit in human rights abuses or corrupt acts anywhere in the world. The Executive Order implements the provisions of the Global Magnitsky Human Rights Accountability Act (“Global Magnitsky Act”), which was signed into law on 23 December 2016.

Also at the national level, and packing more punch than the Magnitsky sanctions route, the UK government could actively support bringing a case of genocide against China via the alternative legal route of Universal Jurisdiction (UJ). This is arguably the best chance we have of prosecuting China for the crime of genocide before very much more damage is done.

The UK government should join forces with other concerned nations to put heavy pressure on the International Olympics Committee (IOC) to rescind China's right to hold the Winter Olympics in Beijing in 2022. This and other measures of this ilk will do much to persuade China to desist from rights abuses in Xinjiang, since China cares very much about its global reputation.

The UK government should put pressure on the International Labour Organisation (ILO) to publicly denounce Uyghur forced labour in Xinjiang and across China, and should encourage other nations to do the same.

Finally, the UK government needs to join forces with others in a multi-lateral push to put pressure on UNESCO to challenge China over its ongoing destruction of religious and cultural heritage in Xinjiang (see: <https://madeinchinajournal.com/2020/08/24/the-spatial-cleansing-of-xinjiang-mazar-desecration-in-context/>) and indeed elsewhere in China.

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

In a context where Muslim-majority nations remain dependent on Chinese finance, it is hard to see how they might take a more radical position, religious affinities with the Uyghurs notwithstanding. I believe that the UK must reconsider the trend towards reduced international aid budgets, as any short-term financial savings thus made are far outweighed by the damage to our standing and influence with other nations. This is the primary way in which the UK could influence Muslim-majority nations to shift their position in respect of rights abuses against Turkic Muslims in Xinjiang.

Providing sustainable, collaborative and non-profit-based development assistance to nations in the Global South is not only an altruistic act but benefits the UK, particularly in light of independence from the EU, in helping to build and sustain relationships with those countries and our consequent ability to influence their actions and statements on the international stage.

Chancellor Rishi Sunak's recent announcement of a £4 billion cut from the UK aid budget next year therefore hands the opportunity for global influence to China on a plate. It would be the wrong move morally but also strategically, at a time when China and Russia are capitalising on the chance to build alliances with developing nations around the world via e.g. "vaccine diplomacy" (see e.g.

<https://www.caixinglobal.com/2020-05-19/xi-pledges-2-billion-aid-global-access-to-covid-19-vaccine-101555561.html>)

Linked to this is the need for the UK to absolutely avoid itself entering into any economic collaboration or relation of co-dependency with China that renders it susceptible to being pressured by China to remain silent in the face of the ongoing genocide in Xinjiang and other human rights abuses currently taking place in China (see e.g. the forthcoming report from the Conservative Party Human Rights Commission, *The Darkness Deepens: The Crackdown on Human Rights in China 2016-2020*, to which I also contributed).

In the context of my above recommendation regarding the provision of no-strings aid to developing nations, I was worried and disappointed when The Chancellor, Rishi Sunak, recently announced that he would cut £4 billion from the UK aid budget next year. While this money represents just 0.2% of UK income, it constitutes a full 30% of the current UK aid budget, the loss of which will be devastating for people in need, particularly women and girls, in the Global South (see the related joint ActionAid and 38 Degrees petition). Not only is our government breaking a manifesto commitment and putting lives at risk with this plan, it is also handing the opportunity for global influence to China on a plate. While the UK shirks its responsibilities and moral duty at a time of global crisis, China and Russia are capitalising on the chance to build alliances with developing nations around the world via e.g. “vaccine diplomacy” (see e.g. <https://www.caixinglobal.com/2020-05-19/xi-pledges-2-billion-aid-global-access-to-covid-19-vaccine-101555561.html>).

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

5G, AI, facial recognition and other digital technologies originating from both private and state-owned Chinese companies should be banned from entering the UK until such time as China ceases to use these technologies for surveillance, social control and pre-emptive internment and incarceration in Xinjiang.

Clauses in UK government procurement procedures could require private companies engaged in delivering services on behalf of the government not to use Chinese companies implicated in Xinjiang rights abuses at any point in their supply chains.

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

The UK government should set up a joint “due diligence” review committee together with leaders from the UK business community, and develop policies to identify business links with Xinjiang and to persuade companies to reject trading practices that tolerate Uyghur forced labour (and indeed forced labour anywhere in the world). Ethical business practices could be incentivised by offering tax breaks or beneficial tax or loan arrangements to companies that can demonstrate a clean, ethical track record.

The government could also more closely supervise e.g. investment companies to ensure that they do not invest in companies and industries that are linked to e.g.

surveillance and artificial technology used in the repression and incarceration of Uyghurs in Xinjiang, or to forced labour involving Uyghurs in either Xinjiang or China proper (see this ASPI report for recommendations on the latter: <https://www.aspi.org.au/report/uyghurs-sale>). In this respect, I was invited to go and talk to employees at Baillie Gifford in Edinburgh about what is happening in Xinjiang, in order to inform that firm's investment practices (and presumably ensure they are ethical, or at least to help them avoid reputational damage). It is to Baillie Gifford's credit that they took the initiative to research the situation via a regional expert, but it is likely that other companies may not have taken such a principled approach. Concerted pressure from, and formal regulation by, the government might help to concentrate the minds of less ethical investment companies.

As advocated by the BHRC report cited above, I would exhort that domestic actions are taken by states to ensure that international corporations that operate in, or are linked to companies in, Xinjiang do not contribute to the commission of human rights violations.² The UK government should immediately follow the US in banning Xinjiang Production and Construction Corps (XPCC) cotton products from entering the country, in order to call out the XPCC's participation in the Uyghur forced-labour regime (see: <https://www.washingtonpost.com/opinions/2020/12/07/new-us-rule-could-change-what-you-wear-intervene-genocide/>). Even better, the UK should introduce an explicit ban on all XPCC- and forced-labour-made products coming out of Xinjiang and China.

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

Uyghur asylum seekers arriving in the UK should be placed on a "safe list" whereby the Uyghur ethnic group as a whole is considered to be highly at risk, including of genocide, if returned to China. Those Uyghurs who have been given temporary leave to remain (e.g. 5 years) must have their leave extended automatically or converted to permanent leave to remain, if the situation in Xinjiang does not improve.

Uyghur asylum seekers and refugees should be supported financially and with counselling therapy where they may have been subjected to torture or other forms of physical and mental abuse in China's detention centres, internment camps or prisons. We know that many survivors have ongoing medical issues that may be extremely debilitating (see for examples the Xinjiang Victims Database: <https://shahit.biz/eng/>).

Over the long term, the UK government could consider providing funding to open Uyghur language and Uyghur studies sub-departments, to be attached to our existing Central Asian Studies centres in the UK, e.g. at Cambridge, Oxford, Exeter, etc. universities. This would not only play an important part in protecting and reviving the Uyghur language, culture and history, but would also raise the profile of the plight of the Uyghur ethnic group and foster respect for Uyghur human rights at national and international levels.

² In respect of due diligence of corporations, see the World Uyghur Congress (WUC) and Global Legal Action Network (GLAN) submission on 23 April 2020 to the UK customs authorities requesting the suspension of imports of cotton goods produced with forced labour in China, <https://www.glanlaw.org/uyghur-forced-labour>.

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

Continue to regularly and publicly debate the Uyghur / Xinjiang issue in the UK Parliament, and bring the issue up consistently at all international policy fora, including the EU and the UN. It is particularly important to highlight this issue at global economic gatherings, where increasingly human rights issues are sidelined in the service of promoting mutual economic gain.

- 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?

I am personally not familiar with any "approach" of the FCDO to atrocity prevention, which is not to say that this does not exist, just that I do not know about one. I can say, however, that I feel the reaction this year of FCDO representatives to pertinent questions posed in UK Parliamentary debates by concerned MPs (often themselves hailing from ethnic or religious minorities) about the Uyghur abuses and latterly the Uyghur genocide, have been underwhelming. E.g. when pushed on merely the very lightest possible government response of Magnitsky-style sanctions, Nigel Adams replied on 9 September 2020 only that "those sanctions are under constant review" and it would be "unwise" to speculate on timings for their imposition. Then, in response to the same MP's question about a genocide determination, he replied "She will know that it is our long-standing policy that the determination of genocide should be made only by a competent court rather than by Governments or non-judicial bodies." I would suggest that, given the frequent reality of international courts passing a "guilty" verdict on cases of genocide only after (hundreds of) thousands of people have been killed, that the FCDO needs to alter its approach to this issue. If Canada's SIHR is able to make a genocide determination following two detailed hearings, then so too is the UK. As we have seen from China's nonchalant dismissal of the charges against it as "fake news" and "fabrication", it is simply not enough for the FCDO / UK government to "repeatedly urge China to end these disproportionate and damaging policies" and to "expect [China] to live it up to its own international obligations", as per Nigel Adams' response.

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