

# A call for a UK Business, Human Rights and Environment Act

November 2023

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# 1. Introduction

Globally, including in the UK, businesses are responsible for human rights abuses in their value chains, many of which amount to modern slavery. However, voluntary corporate responsibility initiatives have failed to protect people from exploitation. In 2015, the UK Government introduced the Modern Slavery Act, with the Transparency in Supply Chains (TISC) clause, which many saw as groundbreaking at the time. TISC requires businesses trading in the UK with a global turnover of over £36 million to publish an annual modern slavery statement. Although TISC has improved awareness of modern slavery in UK businesses, the past eight years of the law's implementation have shown that this is not enough to drive change by businesses.

Under current UK laws, companies operating in the UK are not compelled to take meaningful action to prevent or remedy modern slavery. It is difficult to hold companies to account for harms in their value chains, and victims of modern slavery face enormous obstacles in accessing justice.

Anti-Slavery International is **calling for a new UK Business, Human Rights and Environment Act to create a duty on commercial organisations and public authorities to prevent negative human rights and environmental impacts**. This new law would mandate companies, financial institutions and the public sector operating in the UK to **conduct human rights and environmental due diligence (HREDD)** across their operations, subsidiaries and value chains.

This law would require companies, financial institutions and the public sector to identify, prevent, mitigate and account for human rights abuses, including modern slavery, and environmental damage caused by their operations, subsidiaries and value chains. It would oblige companies to proactively prevent these risks, including by addressing the impacts of their business models. The new law must also hold UK companies accountable if they fail to prevent human rights abuses and environmental harm and must enable victims of abuses to access justice and remedy. This law should be **modelled on the civil and criminal duties to prevent tax evasion and bribery in the UK Criminal Finances Act 2017 and the Bribery Act 2010**.

Calls for a new UK legislative approach to prevent corporate human rights abuses and environmental harm are growing. Civil society, trade unions, businesses, MPs and the public all now call for the UK to introduce a mandatory human rights and environmental due diligence law.<sup>1</sup> The UK Government should meet the commitments laid out in the G7 Trade Ministers' Statement to take measures to eradicate all forms of forced labour, recognising the relevance of measures that support corporate due diligence to this effect,<sup>2</sup> and show global leadership by introducing the proposed Business, Human Rights and Environment Act.

This briefing gives an overview of the rationale behind our legislative call. It outlines the UK's current lack of mechanisms to hold companies accountable for a failure to prevent abuses, the need to level the playing field between businesses, and the urgency of guaranteeing access to justice for victims of corporate abuses.

## A toolbox approach

This briefing provides recommendations to ensure the UK plays its part in addressing modern slavery in global value chains. These include both the principal elements of the proposed Business, Human Rights and Environment Act and a toolbox of additional measures.<sup>3</sup>

**Import controls** are a vital part of the toolbox to end human rights abuses wherever they occur. As a complementary, but not interchangeable, measure to the Business, Human Rights and Environment Act, import controls will stop the UK from being a dumping ground for products made with forced labour rerouted from countries that have import bans and help assure consumers that goods they buy in the UK are free from modern slavery.

Additional elements in the toolbox include labour rights and anti-slavery protections in trade agreements, development policies focused on addressing the root causes of forced labour, and domestic protections and enforcement.

1 <https://www.goodbusinessmatters.org/>

2 <https://www.consiliium.europa.eu/media/57555/2022-06-28-leaders-communique-data.pdf>

3 <https://www.antislavery.org/wp-content/uploads/2022/10/FAQ-forced-labour-global-supply-chains.pdf>

## 2. Background: Modern slavery in UK value chains

Global supply chains are complex. They encompass all business functions required to produce and deliver goods and services in the global economy. Adverse human rights impacts, including modern slavery, can occur at any level of a supply chain: from first-tier direct suppliers through to people working at raw material level, for example harvesting farm crops, mining metals or processing raw materials.

The 2021 Global Estimates of Modern Slavery published by Walk Free, the International Labour Organization (ILO) and the International Organization for Migration indicate that **nearly 50 million people live in a situation of modern slavery** on any given day. Forced labour accounts for 27.6 million of those in modern slavery. Concerningly, the 2021 figures show that about 10 million more men, women and children have been forced to work or marry since publication of the previous estimates in 2017.<sup>4</sup> More than 60% of people in forced labour are exploited in the private sector, probably in the value chains of international businesses providing goods to global markets, including the UK. In the UK, forced labour remains the most common form of exploitation identified by the Modern Slavery Helpline.<sup>5</sup>

Forced labour is both the most prevalent form of modern slavery globally and the most extreme form of labour exploitation (see section 9, Glossary, for definitions). Forced labour is sometimes associated with physical violence but often occurs through other means such as deception, coercion and debt bondage. Socially excluded groups, such as many marginalised communities, migrants, women and girls, are often at risk of forced labour.

Many **root causes of forced labour** are systemic – linked to poverty, discrimination, social exclusion and weak rule of law. However, corporate practices and business operations in global value chains often contribute to the demand for forced labour.<sup>6</sup> The search for low prices and high profits, the drive for faster turnaround of products, the move to subcontracted labour, and reliance on weak monitoring approaches, coupled with restrictions on freedom of association, all increase the risk of forced labour.

There has been a rise in forced displacement worldwide driven by factors such as **climate change**<sup>7</sup> and **armed conflict**,<sup>8</sup> with millions of people fleeing their home countries in search of safety, security and work elsewhere. Such forced displacement significantly increases refugees and other migrants' risk of exploitation.

The COVID-19 crisis further exposed the burden of risk carried by workers in value chains, underscoring gaps in UK legislation around corporate accountability. During the pandemic, workers faced heightened risks of labour exploitation and modern slavery in industries and services such as food, personal protective equipment (PPE) production and delivery. In garment manufacturing, COVID-19 had a disproportionate impact on migrant workers<sup>9</sup> and women,<sup>10</sup> who represent the majority of the industry's workers.

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4 <https://www.walkfree.org/reports/global-estimates-of-modern-slavery-2022/>

5 [https://www.unseenuk.org/wp-content/uploads/2022/04/Unseen-Helpline-Annual-Assessment\\_2021-FINAL.pdf](https://www.unseenuk.org/wp-content/uploads/2022/04/Unseen-Helpline-Annual-Assessment_2021-FINAL.pdf)

6 <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/>

7 <https://www.antislavery.org/cop27-the-impact-of-climate-change-on-modern-slavery-must-not-be-ignored/>

8 <https://www.antislavery.org/supporting-people-displaced-from-ukraine-with-safe-employment-launch-of-new-guidance/>

9 [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_748411/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_748411/lang--en/index.htm)

10 <https://www.fairwear.org/covid-19-dossier/worker-engagement-and-monitoring/gender-analysis/>

### Top Glove and others: labour abuses in PPE factories supplying the UK

Global demand for PPE increased rapidly during the pandemic. Malaysia supplies the majority of medical gloves used by the UK National Health Service (NHS), the world's largest single purchaser of such gloves. There is substantial evidence of forced labour in the Malaysian medical gloves industry, which increased during the pandemic.<sup>11</sup>

Top Glove, a Malaysian PPE company, is the world's largest rubber gloves manufacturer, supplying multiple brands that the NHS buys. During the pandemic, workers at Top Glove allegedly worked 12-hour days, six days a week, with some earning as little as the equivalent of £7 per day.<sup>12</sup> According to social audits, no forced labour occurred at Top Glove. This underscores the inadequacy of audits to identify modern slavery risks.<sup>13</sup> The abuses led the USA to impose an import ban on PPE from Top Glove in July 2020. However, UK imports from Top Glove increased by 314% between January and July 2020.<sup>14</sup>

The UK has allegedly also sourced PPE made with forced labour from the Uyghur Region of China<sup>15</sup> and North Korea.<sup>16</sup> In January 2022, a judicial review in the UK High Court challenged the public sector's procurement processes in relation to another Malaysian-headquartered PPE supplier of latex gloves, Supermax.<sup>17</sup> The case was settled, and it was decided that how the risk profile of potential suppliers is assessed by the NHS must change.

The Introduction of the Health and Care Act 2022<sup>18</sup> represents a step in the right direction adding the potential for greater investigation of NHS suppliers on their human rights risks. However, it is unclear what steps will be required by the Secretary of State to improve procurement processes in this regard or whether they will be effective. This law only applies to one part of public procurement and has no bearing over the private sector.<sup>19</sup>

There is an **urgent need for new binding standards that benefit all workers and their communities**. Without effective policies and practices to prevent and mitigate risks, companies and the public sector may continue to profit from or be linked to forced labour, trafficking and other labour abuses through their business activities and supply chains.

## 3. The current legal approach: The Modern Slavery Act's Transparency in Supply Chains provision

The **Transparency in Supply Chains (TISC) provision of the Modern Slavery Act 2015** was a welcome step to address modern slavery. TISC requires all businesses trading in the UK with a global turnover of more than £36 million to publish an annual modern slavery statement. This statement should establish the steps a company has taken to ensure there is no modern slavery in its own business or its supply chains.

Since introduction, TISC has improved awareness of modern slavery among UK businesses, particularly in sectors such as fashion, food retail and construction.<sup>20</sup> Among investors, TISC appears to have contributed to an increase in attention to modern slavery risks in national and global supply chains, showing senior management this is a serious issue.<sup>21</sup> It has also driven the creation of multi-stakeholder initiatives and industry action to understand and address modern slavery risks.

However, TISC is not enough. Eight years since introduction, TISC has not led to tangible, positive change in the prevention, identification or mitigation of modern slavery in business operations and supply chains.

11 <https://modernslaverypec.org/latest/forced-labour-malaysia-medical-glove>

12 <https://www.theguardian.com/global-development/2021/mar/30/us-bars-rubber-gloves-malaysian-firm-top-glove-evidence-forced-labour>

13 <https://www.reuters.com/world/asia-pacific/an-audit-gave-all-clear-others-alleged-slavery-2021-05-19/>

14 <https://www.theguardian.com/global-development/2020/sep/25/nhs-sourcing-ppe-from-company-repeatedly-accused-of-forced-labour-top-glove>

15 <https://www.theguardian.com/politics/2021/aug/22/labour-says-ppe-contracts-must-not-go-to-xinjiang-firms-that-use-forced-workers>

16 <https://www.theguardian.com/global-development/2020/nov/20/uk-sourced-ppe-from-factories-secretly-using-north-korean-slave-labour>

17 <https://www.business-humanrights.org/en/latest-news/uk-government-faces-legal-action-over-decision-to-continue-sourcing-ppe-from-supermax-accused-of-modern-slavery/>

18 <https://www.legislation.gov.uk/ukpga/2022/31/contents/enacted>

19 <https://modernslaverypec.org/latest/forced-labour-malaysia-medical-glove>

20 [https://media.business-humanrights.org/media/documents/MSR\\_Embargoed.pdf](https://media.business-humanrights.org/media/documents/MSR_Embargoed.pdf)

21 [https://www.rathbones.com/sites/rathbones.com/files/imce/5558\\_votes\\_against\\_slavery\\_2021\\_final\\_16\\_feb\\_2021.pdf](https://www.rathbones.com/sites/rathbones.com/files/imce/5558_votes_against_slavery_2021_final_16_feb_2021.pdf)

As a reporting and transparency obligation, **TISC's focus is solely on information disclosure. TISC does not compel companies to take action.** The quality of statements that companies publish varies a great deal.<sup>22</sup> Some companies have responded meaningfully, providing detailed information on their supply chain structures and due diligence processes to identify and address risks, and in rare instances concrete instances of modern slavery in their supply chains.

However, the majority have approached TISC as a compliance exercise, meeting only the basic requirements of the law: to publish prominently on their website a statement signed by the board or a director.

A 2022 study by the Financial Reporting Council of a sample of 100 major UK companies found that many provide only limited and often superficial commentary on this key business risk. The same patterns of poor reporting continue in areas such as due diligence, risk assessment, and performance measurement and effectiveness.<sup>23</sup> **This shows that companies can comply with TISC without altering the commercial practices that lead to modern slavery and exploitation.**

Overall, this reporting obligation has had little impact on most company behaviour, beyond the yearly publication of a modern slavery statement.<sup>24</sup>

### **The gap between policy and practice**

KnowTheChain is a global initiative that benchmarks current corporate practices, evaluating companies' efforts to assess forced labour risks in their supply chains. KnowTheChain's research has revealed the gap between companies' policy commitments and their implementation in practice:

- **Grievance mechanisms of UK companies:** 2022 data based on 10 UK-headquartered companies in the apparel & footwear and food & beverage sectors showed that 80% of the companies disclosed having grievance mechanisms available to suppliers' workers. However, only 40% disclosed data on the use of such mechanisms. It is unclear whether the mechanisms are effective and whether workers know the mechanisms exist and how to use them, or trust them.
- **Recruitment fees in global businesses:** In 2021 KnowTheChain conducted an assessment of policies and implementation on the exploitation of migrant workers. This analysis used information from 180 of the largest global companies in high-risk sectors – electronics, food and apparel.<sup>25</sup> It found that more than 50% of companies disclose policies prohibiting worker-paid recruitment fees<sup>26</sup> in their supply chains. However, as to implementing these policies, the bar appears far too low, since just 13% disclose evidence, such as proving they take steps to ensure remedy for migrant workers, for example repayment of recruitment fees.

TISC has **no mechanism to hold companies accountable for a failure to address modern slavery risks, or to enable victims of modern slavery in a company's supply chain to access remedy or justice.**

Following calls to improve the UK's legal framework on corporate accountability, in September 2020 the government committed to strengthening TISC.<sup>27</sup> This commitment included extending TISC to the public sector, introducing key sections that modern slavery statements must cover and a new single reporting deadline. In January 2021, the government confirmed that financial sanctions would be introduced "for businesses that do not comply with their transparency obligations".<sup>28</sup> As of October 2023, it remains unclear when some of these changes will become law.

Although these proposed changes to TISC are welcome, a more ambitious approach is needed to drive effective action. Under the currently envisaged improvements, companies will still be sanctioned only for failing to publish a statement, but not for failing to prevent, mitigate and remediate modern slavery in their supply chain.

22 [https://media.business-humanrights.org/media/documents/MSR\\_Embargoed.pdf](https://media.business-humanrights.org/media/documents/MSR_Embargoed.pdf)

23 <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>

24 [https://media.business-humanrights.org/media/documents/MSR\\_Embargoed.pdf](https://media.business-humanrights.org/media/documents/MSR_Embargoed.pdf)

25 <https://knowthechain.org/wp-content/uploads/2021-KnowTheChain-Recruitment-Briefing.pdf>

26 Workers are often made to bear the costs of recruitment. Together with the interest on loans they take out to pay recruitment fees, this can leave workers in debt bondage. According to the ILO, "recruitment costs can amount to nine months or more of average monthly earnings".

27 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/919937/Government\\_response\\_to\\_transparency\\_in\\_supply\\_chains\\_consultation\\_21\\_09\\_20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919937/Government_response_to_transparency_in_supply_chains_consultation_21_09_20.pdf)

28 <https://www.gov.uk/government/speeches/foreign-secretary-on-the-situation-in-xinjiang-and-the-governments-response>

## Uyghur forced labour: an example of TISC's weakness

The Chinese government's detainment of 1-1.8 million Uyghurs, Kazakhs and other Muslim and Turkic-majority peoples in the Xinjiang Uyghur Autonomous Region (Uyghur Region) is considered the largest internment of a religious and ethnic minority group since the Second World War. Forced labour is a key part of this persecution system, which also includes the forced transfer of individuals to factories across China. United Nations human rights experts have determined the abuses may constitute crimes against humanity,<sup>29</sup> and legal and human rights experts have declared that aspects of the abuses may amount to genocide.<sup>30</sup> The UK, with companies profiting from this forced labour, must take action.

The UK Overseas Business Risk guidance<sup>31</sup> highlights the risk of Uyghur forced labour in key industries such as cotton, textiles, automobiles, electronics, and polysilicon. China's dominance in textile exports, with 84% of its cotton originating in the Uyghur Region in 2020, puts global supply chains at risk exposure, with major UK brands like Tesco and River Island being named as at risk of using Uyghur Region cotton.<sup>32</sup> The proportion of the UK's solar industry linked to Uyghur forced labour is estimated at 40%,<sup>33</sup> potentially higher.<sup>34,35</sup> Furthermore, the global automobile industry, encompassing electronic vehicle battery production, faces substantial risks.<sup>36</sup> Supply chains of prominent companies like Daimler, London Electric Vehicle Company, Aston Martin, Bentley, Jaguar Land Rover, and Rolls-Royce are allegedly exposed.<sup>37</sup>

In 2021, the US introduced various Withhold Release Orders (import bans) under the Tariff Act targeting Uyghur forced labour, such as in cotton and tomatoes and against specific entities.<sup>38</sup> From 2022, the Uyghur Forced Labor Prevention Act<sup>39</sup> establishes a rebuttable presumption that all products from the region and from specific suppliers are made with forced labour and banned from importation into the US. While the US has implemented import bans targeting Uyghur forced labour, the UK lacks equivalent legislation or requirements for companies to scrutinise their supply chains.

In contrast to the US, the UK's Modern Slavery Act lacks teeth and fails to compel businesses to investigate their supply chains for forced labour, especially from the Uyghur Region. UK MPs acknowledge these shortcomings and stress the need for new legislation that mandates companies to conduct human rights and environmental due diligence.<sup>40</sup> **The Business, Human Rights and Environment Act would oblige companies to map their risk of being linked to forced labour throughout their supply chains, using all reasonable measures to do so, and to cease relationships where such links are found.** The urgency to address these weaknesses in the face of Uyghur abuses is evident, demanding immediate action to ensure corporate accountability and transparency.

29 <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>

30 <https://uyghurtribunal.com/wp-content/uploads/2022/09/UYGHUR-TRIBUNAL-Judgment-2022.09.20.pdf>. The Uyghur Human Rights Project has compiled resolutions by national governments and parliaments: <https://uhrp.org/responses/>

31 <https://www.gov.uk/government/publications/overseas-business-risk-china/overseas-business-risk-china>

32 <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton>

33 <https://www.theguardian.com/environment/2021/apr/23/revealed-uk-solar-projects-using-panels-from-firms-linked-to-xinjiang-forced-labour>

34 <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

35 <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed>

36 <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>

37 <https://www.shuforcedlabour.org/drivingforce/companies/>

38 <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

39 <https://www.cbp.gov/trade/forced-labor/UFLPA>

40 <https://publications.parliament.uk/pa/cm5801/cmselect/cmbeis/1272/127202.htm>

## 4. International legislative developments to address modern slavery in value chains

Several countries and regional bodies have in recent years adopted or started to consider laws to drive companies to effectively address modern slavery in their value chains. Some of this legislation **embeds elements of human rights and environmental due diligence (HREDD)**, and/or **bans products made with forced labour** (see table).

|  |   |  |
|--|---|--|
| <b>Mandatory human rights and environmental due diligence laws</b> | <b>Laws in effect and/or passed</b>                     | <ul style="list-style-type: none"> <li>France,<sup>41</sup> Germany<sup>42</sup> and Norway,<sup>43</sup> as well as other countries in Europe.<sup>44</sup></li> </ul>  |
|  | <b>Laws at proposal stage</b>                           | <ul style="list-style-type: none"> <li>The EU is set to introduce the Corporate Sustainability Due Diligence Directive (CSDDD).<sup>45</sup></li> </ul>  |
|  | <b>Country-level commitments and other developments</b> | <ul style="list-style-type: none"> <li>Canada has committed to introduce further supply chain legislation to address modern slavery.<sup>46</sup></li> <li>Thailand,<sup>47</sup> South Korea<sup>48</sup> and New Zealand,<sup>49</sup> among other countries, have moved towards introducing similar laws.</li> </ul>  |
| <b>Import bans</b>   | <b>Laws in effect and/or passed</b>                     | <ul style="list-style-type: none"> <li>The US Tariff Act 1930. US Customs and Border Protection has used the Tariff Act extensively, for example to target PPE made with forced labour in Malaysia, palm oil from Indonesia, cotton from Turkmenistan and products from the Uyghur Region.<sup>50</sup></li> <li>The US Uyghur Forced Labor Prevention Act establishes a rebuttable presumption that all products from the region, or from specific suppliers, are made with forced labour and banned from importation into the US.<sup>51</sup></li> <li>After the US–Mexico–Canada free trade agreement entered into force, Canada and Mexico were obliged to introduce comparable rules to the US Tariff Act. In 2020 Canada amended its customs tariff to prohibit imports produced by forced labour. In May 2023, Mexico’s Forced Labour Regulation became effective, which includes an obligation to prohibit the importation of goods produced in whole or in part by forced or compulsory labour.<sup>52</sup></li> <li>The EU has targeted legislation on fisheries<sup>53</sup> and conflict minerals<sup>54</sup> relevant to forced labour.</li> </ul> |
|  | <b>Laws at proposal stage</b>                           | <ul style="list-style-type: none"> <li>The EU has published its proposal for a forced labour regulation that would allow for the banning of products made with forced labour both produced in and imported into the EU.<sup>55</sup></li> </ul>  |

**The UK, which used to be a leader on addressing modern slavery, is currently failing to keep step with international developments.** Failure to act by the UK would mean that businesses wanting to operate in or trade with markets with stronger laws will have to comply with overseas legislation or face potential sanctions. A lack of action risks making the playing field between businesses operating in the UK even more uneven (see section 5.c, Levelling the playing field).

41 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/>

42 <https://dserver.bundestag.de/btd/19/286/1928649.pdf>

43 <https://stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2020-2021/vedtak-202021-176/>

44 <https://corporatejustice.org/publications/comparative-table-corporate-due-diligence-laws-and-legislative-proposals-in-europe-2/>

45 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1145](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145). The EU CSDDD will require companies of a certain size operating within the EU to prevent and reduce risks of human rights and environmental harms to workers and communities in their operations and value chains through mandatory due diligence. This provides a model for such action and will directly affect UK businesses operating in the EU or supplying EU businesses.

46 <https://www.budget.canada.ca/2023/report-rapport/chap5-en.html#m130>

47 [https://earthrights.org/media\\_release/thailand-must-act-on-its-commitment-to-business-and-human-rights-regulations/](https://earthrights.org/media_release/thailand-must-act-on-its-commitment-to-business-and-human-rights-regulations/)

48 <https://ktncwatch.org/news/south-korean-lawmakers-propose-asia-first-bill-mandatory-human-rights-and-enviro/>

49 <https://www.ropesgray.com/en/insights/alerts/2022/05/new-zealand-moves-toward-proposal-of-modern-slavery-legislation-that-would-create-new-compliance>

50 <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

51 <https://www.congress.gov/bills/117th-congress/house-bill/6256>

52 <https://www.lexology.com/library/detail.aspx?g=a635401e-753f-41ab-a2f9-217e07c8b8dc>

53 [https://food.ec.europa.eu/system/files/2018-06/ia\\_trade\\_import-cond-fish\\_en.pdf](https://food.ec.europa.eu/system/files/2018-06/ia_trade_import-cond-fish_en.pdf)

54 [https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation_en)

55 <https://www.europarl.europa.eu/news/en/press-room/20231016IPR07307/towards-an-eu-ban-on-products-made-with-forced-labour>



## 5. The legal approach we need: A Business, Human Rights and Environment Act

The UK urgently needs a new **Business, Human Rights and Environment Act** to introduce a **duty on commercial organisations and public authorities to prevent human rights abuses and environmental harms**. This law would:

- a. Compel businesses to undertake human rights and environmental due diligence to identify, address, prevent, mitigate and remedy harms in their operations and value chains.
- b. Hold companies and other organisations accountable through liability provisions for *failure* to prevent abuses.
- c. Help to level the playing field between businesses and provide clarity and certainty on legal obligations.
- d. Enable victims of abuses, including modern slavery, to access justice.

### Human rights and environmental due diligence

**Relevant legislation would focus on businesses taking responsibility for the impacts of their domestic and international operations, products and services across their value chains.** The UN Guiding Principles on Business and Human Rights (UNGPs)<sup>56</sup> are the international standard the UK has committed to implement. The UNGPs set out businesses' responsibilities to respect human rights, requiring both policy commitment and due diligence "to identify, prevent, mitigate and account for how they address their adverse human rights impacts"; this includes "assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed".

**A due diligence obligation must cover all internationally recognised human rights and environmental standards.** Isolating the obligation to modern slavery alone will be insufficient to address the root causes and drivers of modern slavery. Modern slavery sits within a 'continuum of exploitation' (see definition in the Glossary section) or spectrum of abuses such as lack of minimum wages, restrictions on freedom of association, forced overtime and gender-based violence. A company that does not proactively examine the impacts of its purchasing practices and respect basic labour rights in its value chain, including ensuring workers can join trade unions and are paid a living wage, fails to prevent modern slavery.

Similarly, a due diligence obligation must include preventing, mitigating and remedying *environmental harms*, including climate change impacts. Connections between climate, the environment and human rights are increasingly recognised by governments, courts, international organisations and societies.<sup>57</sup> Climate change and other forms of environmental damage disproportionately impact vulnerable and marginalised groups, including increasing vulnerability to modern slavery. By introducing due diligence requirements for both human rights and environmental impacts, the law will provide consistency and legal clarity to enable businesses to take comprehensive, effective and adaptable action to address their negative impacts.

### Accountability measures with strong liability provisions

**Inclusion of strong accountability measures and liability provisions is fundamental to promote effective action on modern slavery.** Most businesses lack willingness to actively address root causes of human rights violations. There is need for a law with accountability measures focused on preventing abuses in the first place.

Research comparing the impact of transparency legislation (reporting requirements such as in TISC) and bribery legislation (criminal offences) found the former had little impact on corporate policies and practices. By contrast, bribery legislation yields meaningful corporate policy and practice change in terms of prevention.<sup>58</sup> Without such liability provisions, it is unlikely that businesses will substantially change behaviour.

56 [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

57 <https://pubs.iied.org/sites/default/files/pdfs/2021-09/20441G.pdf>

58 <https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12398>



### Failure to prevent: an effective legal model

The due diligence obligation should have accountability measures modelled on the duties to prevent tax evasion and bribery in the Criminal Finances Act and the Bribery Act. The British Institute of International and Comparative Law (BIICL) found this legally feasible and applicable to businesses' human rights and environmental obligations.<sup>59</sup> The 'failure to prevent' model has also been proposed in the development of UK legislation on corporate crime.<sup>60</sup>

Such a model would incentivise companies to prevent abuse from happening, by undertaking human rights and environmental due diligence, and hold companies accountable for failure to do so. Companies could be held liable in a UK court for harm, loss and damage arising from failure to prevent harmful impacts. Evidence that they had in place reasonable due diligence, for example exerting leverage with suppliers, to mitigate and prevent harm could form part of their defence.

This would distinguish the proposed mandatory human rights and environmental due diligence law from other options that risk creating tick-box obligations or incentivising companies to simply disengage from higher-risk suppliers. By placing the onus on a failure to prevent abuses through reasonable due diligence, the focus is instead on positive outcomes.

### Levelling the playing field

As outlined above, some companies have used the TISC transparency requirements to advance discussion and action on human rights due diligence. However, many companies have not.<sup>61</sup> This disparity disadvantages businesses allocating resources and implementing action to respect workers' human rights compared with competitors that are operating with lower costs due to the exploitation of workers.

With the development and implementation of new and more stringent laws, such as the EU's Corporate Sustainability Due Diligence Directive, UK businesses currently face a patchwork of inadequate domestic legislation, leaving a lack of clarity and certainty and multiple demands to meet. The BIICL report that explored the legal feasibility of a duty on commercial organisations and public authorities to prevent human rights harms found that 82% of businesses surveyed believe a new law could provide clarity.<sup>62</sup>

### **A new law compelling due diligence with accountability provisions will make sure a uniform standard of conduct applies to all business actors in their efforts to address modern slavery risks.**

This is one reason why 50 companies, investors and business associations,<sup>63</sup> and (separately) 39 UK investors representing more than £4.5 trillion in assets under management,<sup>64</sup> publicly support UK due diligence laws to drive a 'race to the top' and help rebalance power between workers and companies.

In terms of the cost to companies, a European Commission study shows that the additional recurrent company-level cost of human rights and environmental due diligence for small and medium-sized enterprises (SMEs) would be around 0.14% of their revenue; for larger companies, the cost reduces to 0.09%.<sup>65</sup>

The Commission also looked at other cost-benefit aspects of improving systems to protect human rights and the environment, such as financial performance, reputation, operational efficiency and human resources. A 'failure to prevent' model would be advantageous because of its focus on preventive activity proportionate to the level of risk a company faces, rather than on a series of compliance-based exercises. This is particularly relevant to SMEs, which could focus on their highest risk areas and streamline resources accordingly.

59 [https://www.biicl.org/documents/84\\_failure\\_to\\_prevent\\_final\\_10\\_feb.pdf](https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf)

60 Economic Crime and Corporate Transparency Bill, <https://bills.parliament.uk/bills/3339>; Online Safety Bill, <https://bills.parliament.uk/bills/3137>

61 [https://media.business-humanrights.org/media/documents/MSR\\_Embargoed.pdf](https://media.business-humanrights.org/media/documents/MSR_Embargoed.pdf)

62 <https://www.biicl.org/newsitems/16394/new-biicl-report-looks-at-preventing-human-rights-harms>

63 <https://www.business-humanrights.org/en/latest-news/uk-business-support-for-human-rights-due-diligence-legislation/>

64 [https://media.business-humanrights.org/media/documents/UK\\_BUSINESS\\_STATEMENT\\_MHREDD\\_Aug22.pdf](https://media.business-humanrights.org/media/documents/UK_BUSINESS_STATEMENT_MHREDD_Aug22.pdf)

65 <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>. This European Commission study included UK companies in its sample.

## Why the scope of the Business, Human Rights and Environment Act should include SMEs

All business enterprises regardless of size should conduct human rights and environment due diligence. Although their operations are smaller, SMEs still have a responsibility to respect human rights and the environment. Points to note:

- 1.** The policies and processes expected from SMEs should be established according to their capacity. Their **degree of leverage over business relationships** should also be considered in determining their responsibility.
- 2.** As the European Commission study shows, compliance costs of several due diligence regimes **do not identify a disproportionate economic burden for SMEs.**
- 3.** SMEs may not encounter as many risks to human rights and the environment as larger businesses do, generally having **fewer suppliers and customers** and deeper and better-quality relationships. For SMEs, it is often feasible to map the businesses in their supply chains, and relatively easy and desirable to get to know them. SMEs also tend to spend more time selecting business partners that share their values and match their standards and have a preference for longer-term relationships. These factors allow SMEs greater scope to attend to human rights and environmental issues.
- 4.** Many **SMEs already conduct due diligence.** For instance, Shift Project<sup>66</sup> has worked with SMEs in the apparel, food, retail and cleaning sectors that have reportedly made progress by addressing the problem of low wages, believing this will have knock-on effects on other rights. Another example is the Open Apparel Registry,<sup>67</sup> where SMEs can upload information on their supply chains, enabling the identification of shared suppliers and collaboration to address joint risks.

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66 <https://shiftproject.org/smes-mhrdd/>

67 <https://openapparel.org/>

## Labour exploitation in Leicester and the unlevel playing field<sup>68</sup>

Underpayment of UK workers in garment factories in Leicester is well documented, with hourly rates as low as £3. With increased online shopping during the coronavirus pandemic, Boohoo saw a 37% pre-tax profit increase.<sup>69</sup> Yet while Boohoo and its shareholders enjoyed success, workers in its supply chain were exploited.

Factories remained open during lockdown without providing hand sanitiser or PPE. Workers showing symptoms of COVID-19 or who tested positive were told to continue coming into work and to remain silent about any test results, under threat of losing their jobs. There were allegations of forced labour involving migrant workers at these factories.<sup>70</sup>

Following exposés of labour rights abuses in 2020, Boohoo commissioned an independent review into its Leicester supply chain.<sup>71</sup> The review concluded that Boohoo had not felt any “sense of responsibility for the factory workers in Leicester”, that its supply chain monitoring had been inadequate for years, and that senior board members had known about unacceptable working conditions.

The review found no evidence that Boohoo’s actions constituted criminal wrongdoing, and Boohoo had complied with its responsibilities under TISC.<sup>72</sup> The fact that Boohoo could technically comply with current UK law despite the situation in Leicester shows the law’s inadequacies.

Other UK fashion companies had during this period gone beyond statutory requirements to address exploitation risks in Leicester.<sup>73</sup> This shows that, **without the proposed Act, there is no level playing field between companies that take steps to respect workers’ rights and those that do not.**

Boohoo’s review also found “there may be evidence of breaches of the UN Guiding Principles on Business and Human Rights”, but that the UNGPs have “no force of law in the UK and thus a breach could not by and of itself amount to the commission of a criminal offence”.<sup>74</sup>

According to a separate legal opinion, however: “Boohoo could have been found liable for breaches of the Guiding Principles under mandatory human rights due diligence/UK ‘failure to prevent’ legislation ..., had such legislation been in place during the relevant period.”<sup>75</sup>

Since 2020 Boohoo have pledged to address modern slavery in their supply chain and launched an “Agenda for Change” programme. However, in November 2023 BBC Panorama released an investigation into Boohoo’s operations and supply chain showing a continuation of poor working conditions and abusive purchasing practices.<sup>76</sup>

68 <https://labourbehindthelabel.net/wp-content/uploads/2020/06/LBL-Boohoo-VWEB.pdf>

69 <https://www.theguardian.com/business/2021/may/05/boohoo-profits-soar-as-covid-turns-customer-focus-to-loungewear>

70 <https://labourbehindthelabel.net/wp-content/uploads/2020/06/LBL-Boohoo-VWEB.pdf>

71 <https://www.boohooplc.com/sites/boohoo-corp/files/final-report-open-version-24.9.2020.pdf>

72 <https://www.antislavery.org/boohoo-bargains-but-at-a-human-cost/>

73 In 2014, a group of UK fashion retailers developed the ‘audit and improvement’ programme Fast Forward in response to concerns about exploitative practices in fashion manufacturing going undetected by existing social compliance audits. Anti-Slavery International cannot comment on this programme’s efficacy. Boohoo did not join this programme until mid-2021: <https://www.fastforwarduk.org/public-statement-by-fast-forward-regarding-issues-highlighted-within-the-leicester-garment-industry-9th-july-2020/>

74 <https://www.boohooplc.com/sites/boohoo-corp/files/final-report-open-version-24.9.2020.pdf>

75 <https://www.business-humanrights.org/en/latest-news/report-a-legal-review-into-boohoos-supply-chain-and-liability-under-an-mhrdd-law/>

76 <https://www.bbc.co.uk/iplayer/episode/m001s74g/panorama-boohoos-broken-promises>

## Access to remedy and justice

As outlined by the UNGPs, workers and victims of corporate harm should be able to access remedy in two ways: through the courts (judicial remedy) and through non-judicial mechanisms (such as ombudsperson, mediation or grievance procedures).<sup>77</sup>

**Victims of modern slavery in UK company supply chains face enormous obstacles to accessing remedies or justice.** Eight out of 10 UK companies assessed by KnowTheChain had received allegations of forced labour in their supply chains, for example, yet only one disclosed providing remedy for affected workers.<sup>78</sup> None mentioned engaging with stakeholders as part of their response to the allegation, and none disclosed evidence that any remedy provided was satisfactory to the workers.

Victims of forced labour abroad will face increased difficulty now the UK has left the EU. The UK was previously subject to EU mandatory jurisdiction rules, giving victims of corporate harm an automatic right to take legal action against a UK-based company for harm occurring in their supply chain.<sup>79</sup> With the UK no longer party to the relevant EU convention, UK courts are more likely to force victims to take legal action in the countries where the harm happened, decreasing their chance of obtaining justice.

Barriers to judicial redress in UK courts are high. Not only is the current legal framework insufficient at addressing corporate harm, but existing laws are inaccessible for victims, particularly when harm occurs abroad. The 'burden of proof' rests with the victim rather than the company, requiring the victim to prove the company's alleged poor practices and connection within the supply chain to the harm suffered. Thus, if a large UK-based brand sells products containing components manufactured in another country with forced labour, it is hugely difficult for the victims to bring claims against the UK brand. Rules of conflict of laws often obstruct victims' efforts to sue a corporation in its home state.<sup>80</sup>

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77 A non-judicial grievance mechanism (NJGM) is a formal non-legal complaint process that individuals, workers, communities and civil society organisations affected by corporate harm can use. There are both state- and non-state-based NJGMs, such as national human rights institutions, ombudsperson offices and National Contact Points under the OECD Guidelines for Multinational Enterprises: <https://globalnaps.org/issue/non-judicial-grievance-mechanisms/>

78 <https://knowthechain.org/benchmark/>

79 [https://e-justice.europa.eu/content\\_brussels\\_i\\_regulation\\_recast-350-en.do](https://e-justice.europa.eu/content_brussels_i_regulation_recast-350-en.do)

80 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2960624](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2960624)

## Barriers to justice: Dyson

In 2007, Dyson relocated its manufacturing base from the UK to Malaysia while retaining subsidiary companies and primary operations in the UK.<sup>81</sup> This shift made ATA Industrial in Johor, Malaysia, a central hub whose principal activity is the production of Dyson products.<sup>82</sup> In 2022, a group of migrant workers issued a claim in High Court, London against three Dyson companies.<sup>83</sup> These workers claimed to have been subjected to forced labour and other forms of abuse while producing products and components at ATA Industrial. The workers, who worked in the factories and lived in its linked accommodation in various periods from 2012 to 2022, alleged they endured conditions including unsanitary and cramped living arrangements, substandard food, oppressive production quotas, debt bondage due to exorbitant recruitment fees, sub-minimum wage compensation, as well as instances of verbal abuse, intimidation, threats, and physical violence.<sup>84</sup>

According to the solicitors acting on behalf of the workers,<sup>85</sup> a labour rights activist in southeast Asia received repeated complaints from a whistleblower about the alleged forced working conditions in the factory and contacted Dyson to raise the alarm between 2019 and 2021.<sup>86</sup>

In 2021, U.S. Customs and Border Protection launched an investigation into Dyson due to the allegations according to the whistleblower.<sup>87</sup> Dyson, in response, indicated that it had undertaken extensive inquiries, conducting five audits between 2019 and 2020, with no significant issues found.<sup>88</sup> Later in 2021, Channel 4 news alleged that in June 2021, following a UK national newspaper piece with allegations on the conditions at ATA, there had been incidents involving Malaysian police interrogating, and allegedly torturing workers involved in Dyson's production.<sup>89</sup> These allegations of retribution-type activities are also mentioned in the High Court judgement.<sup>90</sup> Subsequently, Dyson announced the termination of its contract with ATA following an audit that found major concerns related to forced labour.<sup>91</sup>

Alongside other considerations in how companies respond to forced labour allegations in their value chains, this case exposes the severe challenges for alleged victims of harm to bring claims to UK courts. The absence of a Business, Human Rights, and Environment Act posed a huge burden on claimants, requiring these workers to first establish the grounds for their case to be heard in UK courts instead of in Malaysia, where the alleged harm had taken place. Dyson argued for the case to fall under Malaysian jurisdiction, and in October 2023, the UK High Court concurred, rejecting UK jurisdiction.<sup>92</sup>

There is a substantial risk that the alleged victims will not have access to justice in Malaysian courts. The introduction of a Business, Human Rights, and Environment Act would empower workers within the value chains of UK businesses, including those toiling in Malaysian factories, to bring forward their claims and seek remedy through the UK legal system against UK companies for human rights harms.

**The barriers to taking cases to court against UK companies underscore the urgent need for a new law to improve access to justice via UK courts for workers and communities that experience human rights and environmental abuses.** The new Act must remove all barriers and obstacles and reverse the 'burden of proof' by obliging companies to show their due diligence has been adequate and they have taken all necessary steps to prevent harm.

81 <https://www.leighday.co.uk/news/news/2022-news/dyson-accused-of-forced-labour-and-dangerous-conditions-by-migrant-workers-in-malaysian-factory/>

82 <https://www.bailii.org/ew/cases/EWHC/KB/2023/2592.html>

83 [https://www.leighday.co.uk/news/news/2022-news/migrant-workers-issue-legal-claim-against-dyson-for-alleged-forced-labour-and-abusive-working-conditions/?utm\\_campaign=coschedule&utm\\_source=twitter&utm\\_medium=LeighDay\\_Law](https://www.leighday.co.uk/news/news/2022-news/migrant-workers-issue-legal-claim-against-dyson-for-alleged-forced-labour-and-abusive-working-conditions/?utm_campaign=coschedule&utm_source=twitter&utm_medium=LeighDay_Law)

84 [https://www.leighday.co.uk/news/news/2022-news/migrant-workers-issue-legal-claim-against-dyson-for-alleged-forced-labour-and-abusive-working-conditions/?utm\\_campaign=coschedule&utm\\_source=twitter&utm\\_medium=LeighDay\\_Law](https://www.leighday.co.uk/news/news/2022-news/migrant-workers-issue-legal-claim-against-dyson-for-alleged-forced-labour-and-abusive-working-conditions/?utm_campaign=coschedule&utm_source=twitter&utm_medium=LeighDay_Law)

85 <https://www.leighday.co.uk/news/news/2023-news/allegations-of-forced-labour-and-dangerous-conditions-at-dyson-malaysian-factory-to-be-heard-in-high-court/>

86 <https://www.channel4.com/news/exclusive-dyson-faces-legal-action-over-forced-labour-and-exploitation>

87 <https://www.reuters.com/business/dyson-splits-with-malaysia-supplier-stoking-concern-over-migrant-worker-2021-12-05/>

88 <https://www.channel4.com/news/exclusive-dyson-faces-legal-action-over-forced-labour-and-exploitation>

89 Ibid.

90 <https://www.bailii.org/ew/cases/EWHC/KB/2023/2592.html>

91 <https://www.leighday.co.uk/news/news/2022-news/dyson-accused-of-forced-labour-and-dangerous-conditions-by-migrant-workers-in-malaysian-factory/>

92 <https://www.hendersonchambers.co.uk/2023/10/19/high-court-declines-jurisdiction-on-forum-non-conveniens-grounds-in-supply-chain-group-action/>

## 6. Growing support for UK mandatory human rights and environmental due diligence laws

Support is growing from policymakers, businesses, investors and the general public to make businesses legally responsible for respecting the rights of workers in their value chains.

### Government and parliamentary support

Calls from official advisers to the UK Government and from parliamentarians for stronger legislation requiring companies to prevent human rights abuses in their operations are increasing.

A 2017 report from the UK Parliament's Joint Committee on Human Rights recommended that "the Government bring forward legislation to impose a duty on all companies to prevent human rights abuses ... [which] would require all companies to put in place effective human rights due diligence processes ... both for their subsidiaries and across their whole supply chain".<sup>93</sup>

The UK's Global Resource Initiative (GRI) taskforce, comprising leaders from business and environmental organisations and sponsored by the Department for Environment, Food & Rural Affairs (DEFRA), the Department for Business, Energy & Industrial Strategy (BEIS) and the Foreign, Commonwealth & Development Office (FCDO), urged the government in 2020 to introduce legislation that goes beyond the TISC reporting requirements.<sup>94</sup>

In July 2021, in its inquiry on Xinjiang detention camps the UK Parliament's Foreign Affairs Committee recommended the government to introduce new legislation to "create a legal requirement for businesses and public sector bodies to take concrete measures to prevent and remove the use of forced labour in their value chains. This new duty should be backed up by meaningful sanctions and penalties for non-compliance."<sup>95</sup>

The Labour Party's National Policy Forum programme announced in October 2023<sup>96</sup> includes assessing "the best way to prevent environmental harms, modern slavery and human and labour rights abuses in ... supply chains including effective due diligence rules". This platform will inform the party's next general election manifesto.

By October 2023, 43 MPs and peers from seven political parties supported a new law on business, human rights and the environment to protect people and planet from abuse, recognising the need for mandatory due diligence legislation for business and the public sector. These policymakers agree that voluntary initiatives have failed, and that the UK needs a new law that encompasses accountability mechanisms, enforcement and access to justice for victims.<sup>97</sup>

### Business and investor support

The BIICL's 2020 study cited above found that regulation may bring benefits to business through providing legal certainty and levelling the playing field, with competitors and suppliers held to the same standards. Three-quarters of businesses the BIICL surveyed considered that existing law does not provide business with clarity about corporate human rights obligations.<sup>98</sup>

In July 2023, 50 leading businesses, investors, business associations and initiatives operating in the UK, including the British Retail Consortium, the Ethical Trading Initiative, John Lewis & Partners, Nestlé, ASOS, Primark and Tesco,<sup>99</sup> called for the UK Government to urgently bring forward ambitious primary legislation to mandate companies to carry out human rights and environmental due diligence (HREDD). In their statement, these companies and related organisations argued the need for this legal requirement to encompass strong consequences to ensure businesses carry out HREDD and access to justice for victims.

A year earlier, in 2022, 39 UK investors representing more than £4.5 trillion in assets under management, including Aviva, Legal & General and CCLA, released a statement that businesses "should be held legally liable for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts within their operations and throughout their global value chains", and should be "required to adequately compensate victims of abuse".<sup>100</sup>

93 <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/44311.htm>

94 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/876465/gri-taskforce-executive-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876465/gri-taskforce-executive-summary.pdf)

95 <https://committees.parliament.uk/publications/6624/documents/71430/default/>

96 <https://labourlist.org/2023/10/labour-national-policy-forum-final-document-summary-policy-manifesto-party-conference/>

97 <https://www.goodbusinessmatters.org/decision-makers>

98 [https://www.biicl.org/documents/84\\_failure\\_to\\_prevent\\_final\\_10\\_feb.pdf](https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf)

99 <https://www.business-humanrights.org/en/latest-news/uk-business-support-for-human-rights-due-diligence-legislation/>

100 <https://www.business-humanrights.org/en/latest-news/investor-letter-for-uk-human-rights-due-diligence/>

## ASOS calls for mandatory human rights due diligence legislation with liability provisions

A 2021 opinion piece by the large UK retailer ASOS called for the UK to adopt legislation to keep the UK at the forefront of international initiatives.<sup>101</sup> ASOS called for making human rights due diligence mandatory, requiring UK-based businesses to “report on their efforts to mitigate risk and protect people in supply chains globally”, and reinforcing this through liability for companies that fail to prevent human rights harms. ASOS specifically endorsed the BIICL study<sup>102</sup> on the Bribery Act as setting a model for best-practice UK legislation.

## Public support

Public opinion also supports new rules to hold companies accountable. A public petition with more than 120,000 signatures by October 2023 calls on the UK Parliament to support a Business, Human Rights and Environment Act against human rights abuses and environmental destruction in value chains.<sup>103</sup>

A 2022 YouGov poll of 1,802 adults commissioned by Anti-Slavery International and the Corporate Justice Coalition shows overwhelming public support for stronger legislation, with 80% of the public wanting a law to prevent business human rights and environmental harm.<sup>104</sup> The polling reveals that 87% of the public support new laws to prevent businesses from exploiting people in their supply chains, and 83% support new laws to force companies to ensure their supply chains do no avoidable damage to the environment. Across all UK age groups and regions, among all three main English political parties, and including supporters of both ‘remain’ and ‘leave’ in the 2016 Brexit referendum, support for new legislation is at least 75%.

## 7. Recommendations to the UK Government for reforming regulation

The UK Government must now play its part in addressing forced labour in value chains, aligning UK policy with international developments and growing business consensus on the need for mandatory due diligence laws. The government should introduce a new **Business, Human Rights and Environment Act**.

### Principal elements of a Business, Human Rights and Environment Act

- Commercial and other organisations must have an obligation to respect all **internationally recognised human rights, including the promotion of all labour rights standards and protection from contemporary forms of slavery, as well as adhering to all relevant environmental standards** in their own operations, their global value chains and their business relationships. Business relationships should include suppliers, contractors and subcontractors, joint venture partners, franchises and business customers etc.
- To be fully effective, the law needs to cover a **broad range of commercial and non-commercial organisations, no matter their size or sector**, including large publicly listed corporations and also non-listed companies and small and medium-sized enterprises (see section 5.c, Levelling the playing field). The law should include **public-sector bodies**, along with 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, while recognising that accountability provisions for the public sector may differ. The **financial sector**, encompassing a wide range of financial institutions including insurance companies, should also fall under the law’s scope.
- Commercial and other organisations must have an obligation to identify, cease, prevent, mitigate, monitor and account for potential and actual adverse human rights and environmental impacts through an ongoing due diligence process, in accordance with existing international standards. This must include identifying and addressing how their business models and decisions, such as trading and

101 <https://www.thetimes.co.uk/article/the-uk-must-take-the-global-lead-against-modern-slavery-once-more-gs7jkr2zf>

102 [https://www.biicl.org/documents/84\\_failure\\_to\\_prevent\\_final\\_10\\_feb.pdf](https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf)

103 <https://corporatejusticecoalition.org/our-campaigns/due-diligence-law/>

104 [https://www.antislavery.org/wp-content/uploads/2022/08/CorporateJusticeCoalition\\_Results\\_220819.pdf](https://www.antislavery.org/wp-content/uploads/2022/08/CorporateJusticeCoalition_Results_220819.pdf)



purchasing practices, risk creating or contributing to negative human rights and environmental impacts, including modern slavery.

- There must be an obligation to respect human rights and the environment across the **entire value chain**, as human rights violations, such as forced labour, can occur at any stage, from raw materials production to the manufacture, transport, delivery and use of goods, and the delivery of services.
- Business enterprises must provide for or cooperate in the **remediation of adverse impacts** in their operations and business and their global value chains. Remedies may include, but are not limited to, financial or non-financial compensation, reinstatement, apologies, restitution, rehabilitation, contribution to investigation and prevention of additional harm through, for example, non-repetition guarantees.
- There must be **mandatory and meaningful engagement with stakeholders** affected by company activities. This engagement must include trade unions, credible representatives of actual and potentially affected stakeholders, workers and communities, including local, Indigenous and marginalised groups, who may face barriers to participation. Workers and their organisations must have a meaningful role in implementing and monitoring mandatory human rights and environmental legislation, including remediation.
- Commercial and other organisations must **publish a forward-looking plan** describing the procedures they will adopt in the forthcoming financial year, and an assessment of the effectiveness of their actions the previous year. Commercial organisations and their senior managers should be subject to a civil penalty if they fail to develop, implement and publish a due diligence plan within a reasonable time, or publish a misleading or inadequate plan.
- The law should establish **supply chain disclosure requirements, including the origin of raw materials**, and disclosure of verifiable information such as on workers, wages and benefits.
- Commercial and other organisations should be held **liable for harm, loss and damage arising from failure to prevent adverse human rights and environmental impacts** of their domestic and international operations, products and services including in value chains. **Unless otherwise specified, commercial and other organisations' proof that they have acted with due care** to prevent human rights and environmental impacts could be a defence from liability. Commercial and other organisations and their senior managers must be subject to a criminal penalty if they fail to prevent serious human rights or environmental harms. Such penalties should be modelled on the civil and criminal duties to prevent tax evasion and bribery in the Criminal Finances Act and the Bribery Act.
- **Audit reports and certification schemes**, as well as membership of industry or multi-stakeholder initiatives, **should not be considered evidence of due diligence**.

### Meaningful consultations in the design of the law

To ensure that law and policy translate into best practice, international, national, local and grassroots organisations working with people affected by corporate abuses and environmental harm must be part of the conversation. Many such actors work closely with workers and communities whose trust they have gained over time. NGOs and trade unions hold key knowledge of what needs to happen on the ground. Taking into account practical realities contributes to legislation's effective design and implementation. The UK Government must work with such actors and ensure workers' and affected communities' voices inform design of laws to protect them.

### A toolbox approach

There is no silver bullet to address forced labour in global value chains. A range of approaches are essential to address the problem and its causes. Although this briefing focuses on the need for a Business, Human Rights and Environment Act, Anti-Slavery International also calls on the UK Government to adopt additional primary legislation, such as import controls, and strengthen domestic protection and enforcement. This complementary toolbox of measures would put human rights at the heart of UK value chains.

### Import controls

Import controls are a key part of the toolbox to end business-related human rights abuses wherever they

occur, and so that consumers can be confident that goods they buy in the UK are free from modern slavery.

Products made with forced labour are traded around the world daily. Some governments have introduced laws to be able to block or seize products made with forced labour through their customs processes (see section 4). Import controls are a different legislative tool from mandatory due diligence laws, and the two approaches are complementary (but not interchangeable).

Due diligence laws provide an overarching obligation on companies to identify and address human rights risks as an integrated part of day-to-day business. Import controls, by contrast, are an enforcement tool allowing government authorities to use their trade and economic power to respond to specific cases of forced labour and put immediate pressure on companies to change practices and remediate workers when harm is found. This also allows governments to target the practices of suppliers in third countries that may not fall under direct scope of domestic due diligence laws.

### State-imposed forced labour

Import controls are particularly powerful in cases of state-imposed forced labour, where there is systemic forced labour across an entire industry, as with cotton in Turkmenistan<sup>105</sup> and the Uyghur Region (see Uyghur case in section 3). Governments can ban the import of these products into their country, compelling importers to root out such products from their supply chain and putting economic pressure on perpetrating governments to end their abuse of citizens. As noted by Ruslan Myatiev, director and founder of Turkmen.news: “Every year, tens of thousands of Turkmen citizens are forced to pick cotton in hazardous and unsanitary conditions, under the vigilance of the country’s extremely oppressive regime ... [P]roducts tainted with forced labour cotton from Turkmenistan continue to enter global markets and could be present in many of the goods we buy ... It is currently impossible for businesses to improve the human rights situation on the ground. Businesses’ economic power needs to be channelled differently if the industry truly wants to drive meaningful change. We need an effective instrument that would ban the imports of goods made with forced labour into the UK market.”

Seizing a product at the border because of evidence it was made with forced labour can be a strong incentive to make companies act swiftly to address forced labour in their value chain and remediate those affected.

However, import controls need to be carefully designed to focus on achieving positive changes for workers. Controls need to be introduced with remedy and with requirements that companies restore workers’ rights and improve working conditions to have controls on their products lifted.<sup>106</sup> The UK should consult carefully with potentially affected workers and their representatives when considering introducing import bans, and make sure the process of introducing any such ban is transparent.

### Other complementary measures

**Improved labour market enforcement and inspections.** The UK Government should implement a more comprehensive approach to preventing domestic labour exploitation, including improved labour market inspection and enforcement.<sup>107</sup> The enforcement strategy should recognise the continuum between labour abuses, such as when failure to pay the national minimum wage may develop into more severe exploitation, for example as workers’ debt accumulation heightens vulnerability to deception and abuse. There should be a separation of powers between labour enforcement bodies and the Home Office’s immigration controls, including by ending the practice of joint operations such as immigration raids under the guise of safeguarding and reporting on undocumented workers.<sup>108</sup>

105 <https://www.antislavery.org/turkmenistan-new-harvest-findings-how-governments-should-address-forced-labour/>

106 <https://www.antislavery.org/wp-content/uploads/2021/06/Anti-Slavery-International-ECCHR-Import-Controls-Position-Paper-1.pdf>

107 E.g. through the creation of the proposed single enforcement body.

108 “Since 2010, local level enforcement measures have been extended in order to create a ‘hostile environment’ for people without secure immigration status in the UK. This has included new measures to reduce access to private rentals, driving licenses and bank accounts, and the contentious 2013 ‘go home vans’ initiative by the Home Office”: Migration Exchange, Taking Stock and Facing the Future, 2020, <https://global-dialogue.org/taking-stock-and-facing-the-future/>

**Migrant workers.** The UK Government should take steps to reduce migrant workers' vulnerability to exploitation and forced labour. Measures should include ensuring that visas are not limited to a particular employer or sector; that workers are never charged recruitment fees or costs; and that migrants who have been exploited can seek remedies and are not criminalised for irregular immigration status.

With introduction of the new so-called Illegal Migration Act in July 2023, access to protection and support has been removed for victims of exploitation who arrive in the UK irregularly. This will embolden perpetrators and create a culture of fear likely to further prevent migrant workers from coming forward. The new law further tightens access to modern slavery recovery support following the Nationality and Borders Act 2022, which allowed for disqualification from support on public order grounds, undermining the non-punishment principle at the heart of victim support. The government should roll back these harmful policies.

**Trade, development and foreign policies.** As the UK Government examines its trade and development policies and approaches following Brexit and secures new trade agreements, it must ensure that human rights and environmental protections, including prevention of modern slavery, are at the centre of all policies and agreements and their implementation, for example including use of the UK Global Human Rights Sanctions regime.<sup>109</sup>

**Strengthen current legislation.** The UK Government should also reform the Modern Slavery Act's TISC clause by adding accountability measures, such as sanctions for false reporting or failure to report. The Home Office's 2020 response to the TISC consultation committed to introduction of sanctions for non-compliance.<sup>110</sup> More than three years later, we still await this commitment's implementation.

**Regulation of the garment industry.** The UK Government should proceed with considerations to introduce a garment adjudicator. Comparable to statutory provision in the grocery sector, this would regulate large garment retailers' relationships with suppliers and address abusive purchasing practices.<sup>111</sup>

## 8. Conclusion

**Current UK policy and legislation remain insufficient to compel UK companies to take meaningful action to prevent modern slavery in their value chains. The UK needs a new Business, Human Rights and Environment Act to establish a duty on commercial organisations and public authorities to prevent human rights abuses and environmental harm, with effective access to remedy and justice.**

Such legislation would also:

- be in line with the UK's commitments under the 2023 G7 Trade Statement, which reiterated the 2021 G7 commitment to "coherent implementation of and compliance with international standards relating to human rights, environment, and labour across global supply chains", including via, "mandatory measures that protect rights-holders, provide for greater multilateral cooperation to address abuses, and support remedy, thus enhancing predictability and certainty for business"<sup>112</sup> (see introduction section);
- contribute to the Sustainable Development Goals by making human rights and responsible business practice central to broader business and trade policies;
- regain the UK's position as a world leader in preventing modern slavery in global value chains.

The UK must take action to ensure proper protections and access to remedy for those exploited in the value chains of UK companies. A Business, Human Rights and Environment Act would keep the UK in step with leading global counterparts, provide a level playing field for businesses, and future-proof UK business and value chains. Calls for UK Government leadership on this issue are widespread from policymakers, civil society, and the businesses and investment communities. It's time to put words into action.

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109 The Global Human Rights Sanctions regime enables the government to sanction people implicated in human rights abuses anywhere in the world.

110 <https://actions.sumofus.org/a/tell-the-uk-parliament-to-end-corporate-impunity>; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/919937/Government\\_response\\_to\\_transparency\\_in\\_supply\\_chains\\_consultation\\_21\\_09\\_20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919937/Government_response_to_transparency_in_supply_chains_consultation_21_09_20.pdf)

111 <https://committees.parliament.uk/publications/5023/documents/50076/default/>

112 <https://www.consilium.europa.eu/media/57555/2022-06-28-leaders-communique-data.pdf>

## 9. Glossary

**Continuum of exploitation.** Labour rights abuses occur on a continuum of exploitation. Decent work, in which workers can enjoy all their rights, sits at one end of the spectrum, forced labour at the other. The space between is the continuum in which labour rights violations occur. This explains how decent working conditions may deteriorate into forced labour or other forms of modern slavery.

**Due diligence.** As defined in the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct,<sup>113</sup> due diligence is the process enterprises should carry out to identify, prevent, mitigate and account for how they address actual and potential adverse impacts in their own operations, their supply chain and other business relationships. The OECD Due Diligence Guidance for Responsible Business Conduct outlines six steps for due diligence.<sup>114</sup>

**Forced labour.** Any work or service that people are forced to do against their will under threat of penalty constitutes forced labour. People may agree to take up work and only once they start working discover they were deceived about the conditions or the nature of the work and that they are not free to leave without repercussions.

**Human rights and environmental due diligence (HREDD).** As part of due diligence, companies should identify, assess, prevent, mitigate and account for actual and potential negative human rights and environmental impacts in their operations and value chains. Crucially, the human rights and environmental due diligence process should focus on risks to people, not to the business.

**Modern slavery.** Modern slavery is an umbrella term which includes but is not limited to human trafficking, forced labour and forced marriage. It is a situation when an individual is exploited by others for personal or commercial gain. Whether tricked, coerced or forced, victims of modern slavery lose their freedom.

**Remedy.** Remediation of forced labour refers to a process of ensuring that persons subjected to forced labour have access to appropriate and effective remedies, which aim to repair the damage caused by forced labour and can take the following forms: compensation (financial or non-financial), restitution, satisfaction, guarantees of non-repetition, and rehabilitation.

**SMEs (small and medium-sized enterprises).** In the UK a small to medium-sized enterprise is any organisation with between 10 and 250 employees and a turnover of less than €50 million or a balance sheet total less than €43 million (the UK Government provides these thresholds in euros).<sup>115</sup> Thresholds to define SMEs differ across jurisdictions.

**State-imposed forced labour.** State-imposed forced labour takes place when national or local authorities force citizens to work, where people have not offered themselves voluntarily. With state-imposed forced labour in cotton production in Turkmenistan, for example, the government maintains total control of the cotton sector, enforcing a top-down system that may involve officials at every level of government.<sup>116</sup>

**Supply chain.** A supply chain is the network of all the individuals, organisations, resources, activities and technology involved in the creation and sale of a product or service. A supply chain encompasses everything from the supplier's delivery of source materials to the manufacturer through to eventual delivery of goods to the end user.

**Value chain.** A value chain comprises all the interconnected activities required to deliver goods and services, from raw material extraction to sale to consumers, as well as the use of the products and services. A business's value chain includes all the entities with which it has a direct or indirect business relationship and either (a) supply products or services that contribute to the company's own products or services or (b) receive products or services from the company.

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113 [https://www.oecd-ilibrary.org/finance-and-investment/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct\\_81f92357-en](https://www.oecd-ilibrary.org/finance-and-investment/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en)

114 <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

115 <https://www.gov.uk/government/publications/fcdo-small-to-medium-sized-enterprise-sme-action-plan/small-to-medium-sized-enterprise-sme-action-plan>

116 <https://www.antislavery.org/latest/state-imposed-forced-labour-turkmenistan-now-time-for-action/>