Community Energy England response to the Forced Labour in UK Supply Chains inquiry.

Joint Committee on Human Rights

Introduction to Community Energy England

Community Energy England (CEE) represents over 320 community energy and associated organisations across England involved in the delivery of community-based energy projects that range from the generation of renewable electricity and heat, to the energy efficiency retrofit of buildings, to helping households combat fuel poverty.

Our vision is of strong, well informed and capable communities, able to take advantage of their renewable energy resources and address their energy issues in a way that builds a more localised, democratic and sustainable energy system.

Community energy refers to the delivery of community led renewable energy, energy demand reduction and energy supply projects, whether wholly owned and/or controlled by communities or through partnership with commercial or public sector partners.

The overwhelming motivation of people and groups involved in community energy is to make a contribution to averting climate catastrophe, followed by a desire to bring community and social benefit. It is a values based movement very much focused on cooperating to get things done.

We believe that these motivations should be shared by all working in the energy sector and on energy system transformation.

Over recent years Community Energy England, has become aware that there are concerns regarding the solar PV supply chain from both a human rights perspective and with regard to the embodied carbon in solar manufacture. In 2022 we formed an Ethical Sourcing Working Group with expert and concerned members. Input from this group has informed this response. Jon Halle of Big Solar Coop has recently presented to DESNZ civil servants supporting the Solar Taskforce (chaired by the Secretary of State) on ethical supply chain issues for solar energy. He would be happy to do the same for the committee. See his concise blogs focussing on carbon and human rights in the solar supply chain.

Legislative Framework

1. Are the obligations created by the Modern Slavery Act 2015 effective in preventing goods with international supply chains linked to forced labour being sold on the UK market? If not, what changes are needed to prevent goods linked to forced labour from being sold in the UK market?

No. The threshold of £36m is too high to capture much of the activity in the solar sector. There is almost no transparency in the supply chain for solar panels so any assurances from companies are mostly not credible. (see Over-Exposed report by Sheffield Hallam University, Sept 2023)

2. How effective is other UK domestic legislation in preventing goods with international supply chains linked to forced labour entering the UK market? Are there any gaps? If so, what legislative improvements could be made?

3.Recent case law against the National Crime Agency suggests that British authorities and courts can have a role in addressing instances of forced labour in supply chains occurring outside the UK. What impact is this development likely to have on the way that companies consider the risk of forced labour and human rights in their supply chains, for example which suppliers they choose?

4.What international legal obligations does the UK have in relation to forced labour in supply chains? Is the UK's current domestic approach compliant with those obligations?

5.What, if any, obligations does international law place on corporations when it comes to forced labour in their supply chains? Are these obligations effective?

6.Where should the responsibility lie for preventing products linked to forced labour from entering the British market? E.g. government, regulation, business, consumers, others?

The government, via regulation or import bans on slavery implicated products, is the only independent agency that can impose standards. This still presents a problem because of the complete lack of transparency in the solar supply chain. International collaboration is needed to enforce traceability.

The solar industry will not act, or only slowly as evidenced by the glacial progress of the Solar Stewardship Initiative, as it presents a very serious threat to its growth if it becomes regulated. Chinese solar has a virtual monopoly and also successfully undercuts virtually all other producers especially as it has been dumping panels in the EU market since importation to the US became impossible post the IRA.

Enforcement and Corporate Activity

7.In the UK, there are three public bodies which may potentially have a role in addressing goods linked to forced labour: the Independent Anti-Slavery Commissioner, National Crime Agency, and Border Force.

a.What role, if any, does each body play in detecting and preventing goods produced using forced labour being available on the UK market?

b.Do these bodies have sufficient powers? If not, what other powers should they have?

c.How could these bodies work together most effectively?

8.Are any sectors serving the UK market at particular risk of forced labour in their international supply chains?

The renewable energy industry, (especially solar) is especially exposed due to China having effectively cornered the market in the production of solar panels and componentry.

Over recent years Community Energy England has become aware that there are concerns regarding the solar PV supply chain from both a human rights perspective and with regard to the embodied carbon in solar manufacture.

There are documented claims that many of the solar modules available in the UK market may contain raw materials from regions where there is evidence of forced labour in the solar supply chain.

Embodied carbon in solar manufacture is a parallel issue. Although it appears that even solar modules with high embodied carbon generate electricity which lowers the carbon intensity of the UK grid considerably, the decarbonisation impact of our solar projects can be very significantly improved if we are able to specify solar modules with lower embodied carbon. Chinese panels made with polysilicon created using coal can have up to 500% more embodied carbon than the cleanest European panels. Additionally there are issues of charcoal use, created from dirty unsustainable sources.

Unfortunately at this time there is very little information available which would enable community energy organisations or anyone to make informed decisions about the sourcing of their solar modules and other equipment. Very few, if any, of the solar modules available in the UK come with robust independent supply-chain and carbon audits. Our members are currently obliged to attempt to make ethical sourcing decisions on the basis of press reports, company statements and circumstantial evidence.

We believe that the practice of forced labour is utterly unacceptable and that it is of equal importance that the technologies we use are those which reduce carbon emissions the most.

Initiatives such as the Solar Stewardship Initiative seem to be moving slowly if at all. There is functionally no transparency at all in the solar supply chain. Raw polysilicon from Xinjiang is difficult to differential from lower carbon polysilicon from Chinese province less or not implicated in forced labour. It may even be deliberately moved around so that traceability is muddled.

The best research has been done by Sheffield Hallam university - essential reading in the view of CEE's Ethical Sourcing Working Group.

- The Sheffield-Hallam study 'In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains' https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight
- And their follow up in Sept 2023 'Over-Exposed' https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed
- Action for Sustainability has produced a report (more generic than the above but still well founded) in Sept 2023

One of the leading researchers in the field (co-author of the Over-Exposed report, Alan Crawford, said, "the best way to avoid all of these Chinese-problems is a China-free solar supply chain from quartz to modules. Easier said than done!" (We are in touch with him and co-author Laura Murphy who would potentially be available to give evidence to the Committee.)

There used to be panels made by Mayer Burger in Germany, made with Norwegian polysilicon made using hydroelectric power. Mayer Burger seems to be exiting the market in Europe in favour of the US where the IRA has banned Chinese imports of solar panels stimulating a slavery free domestic intergrated supply chain. None of this material is being exported as the demand is high in the US.

We have heard of a German entrepreneur who was attempting to get the 10s of billions of dollars necessary to create an integrated supply chain in Europe. Since the dumping of Chinese panels in Europe this may have become financially difficult.

We would argue that it is a long term investment worth making to ensure European energy security. This will require close collaboration and coordination of import restrictions across Europe. It may also have the effect of forcing China to clean up its supply chain.

The UK can't compete on polysilicon where other countries have very cheap electricity. However there could be a market for ethical solar that could be met by UK production using technology that is less energy intensive such as thin film, (Power Roll) as pioneered First Solar in the US, or ultimately perovskite (Oxford PV - currently used only to increase polysilicon efficiency). It should be noted that currently the panels are less efficient at 11-20%. But they are also cheaper and often lighter so for extensive usage such warehouse roofs they may be a cost effective solution.

Community energy projects such as Big Solar Coop are currently installing Mayer Burger panels (the ones with the best traceability but still not guaranteed free from slavery implicated Chinese polysilicon.) It is a fundamental principle line in their business model to use the most ethical panels

possible. Despite the extra cost there is a significant demand for it. The panels are often better quality, too.

Jon Halle of Big Solar coop has written 2 concise blogs focussing on carbon and human rights in the solar supply chain.

The UK does have at least some leadership in solar R&D if not in commercialisation. Wind and heat are more obvious matches for new home-grown renewables technology. The other area would probably be software - renewables design and monitoring apps are still generally quite bad.

9.Should companies of all sizes be required to manage the risk of forced labour in their supply chains? How could such an obligation be delivered in a manner which is proportionate to a company's exposure to forced labour risks, number of employees, and annual turnover?

In an ideal world, yes. However smaller companies do not have the resources to do endless tracing. The onus should be on the supply and import companies. However when there is genuinely no transparency in the supply chain even they will find it virtually impossible to enforce traceability in any meaningful way. It is therefore up to government to put pressure on foreign countries and manufacturers, to put in place genuine traceability so that companies can choose to opt for cleaner and slavery free options, which will bring market pressure to clean up the supply chain. At present there is no pressure because it is almost impossible to choose other than by excluding the worst companies as exposed by the Sheffield Hallam research.

10.What could be done to improve corporations' ability to identify forced labour risks in supply chains, and select suppliers that meet government's expectations?

Companies would have to provide regular and well founded evidence including on the embodied carbon of panels. This is something that none of the companies (the vast majority in the market) that use Chinese modules or polysilicon are currently able to do. The Chinese government and the companies that make the polysilicon and modules in China are mostly unwilling to cooperate too.

11.Where forced labour is a risk, what level of investigation/due diligence is it reasonable to expect from companies and public sector buyers before deciding whether to contract with suppliers?

Extensive investigation and due diligence is necessary but even that cannot provide certainty as evidenced by the Sheffield Hallam research by people with experience in the region and which used local contacts.

The government needs to fund more research to build on the Sheffield Hallam research.

12.How can a level playing field be achieved, where companies who operate supply chains free from forced labour are not at financial disadvantage?

Impose a national import ban on slavery-implicated solar panels and componentry backed by extensive research to verify the claims of those that seek to meet the standards.

13.How effective are the UN Guiding Principles at encouraging corporations' consideration of the human rights impacts of business decisions? Please provide examples or evidence.

Consumer behaviour

14.If it becomes known that a company is using or at high risk of exposure to forced labour, what impact does this have on consumer attitudes or profits? Are consumers incentivised to avoid buying products that are likely to be linked to forced labour?

The renewables industry has to tread a very fine line. We urgently need renewable technology to decarbonise. This is an existential issue. However we must use this transformation moment to transform the way we do business, to benefit people, to reduce inequality and increase fairness. If we worsen or entrench the syphoning of wealth and power to the few we may have a survivable future but it won't be fair or much fun to live in. Removing slavery from supply chains should be seen as an essential part of this process of transformation.

The human rights issue has been used to damage the credibility of rewewable technology as a whole, especially by climate or net zero deniers and even by nimbies or those who oppose solar in the countryside. This is a significant danger and must be carefully but bravely negotiated.

15.To what extent do existing transparency measures translate to accurate awareness of risk in customers?

Procurement

16.Does public procurement attract a higher risk of exposure to forced labour? If so, why is this the case?

17.How can the risk of exposure to forced labour be effectively managed in procurement?

International approaches

18.Are there particular elements of the Uyghur Forced Labor Prevention Act of 2021 in the USA that would be appropriate for consideration within a British Act? Please explain why you think such measures would be beneficial.

The example shown by the US in banning the import of these good is to be praised, welcomed and followed. Their ambition "to lead the international community in ending forced labor practices wherever such practices occur through all means available" is one the UK should share and have the courage to step up to. Combined with the IRA it seems to have had a notable beneficial stimulus on the renewables industry in the US.

a.Are there any weaknesses or flaws in the US approach?

19.EU Member States have agreed two instruments to prevent the sale of goods linked to forced labour in the EU. Firstly the 'Prohibiting products made with forced labour on the Union market' and secondly the Corporate Sustainability Due Diligence Directive (CSDDD). Are there elements of either the regulation or the directive that would be appropriate for consideration in the UK? Please explain why you think such measures would be beneficial.

We don't know enough about this to comment. But we understand the French Certisolar requirement to show the carbon impacts of technology has improved the solar supply chain in France. It is one of the only thorough-going requirements of standards in the solar supply chain in Europe and is reportedly having positive effects.

a.Are there any weaknesses or flaws in the EU approach?

20. Are there any other nations with effective legislative frameworks to address goods linked to forced labour which may be useful for the Committee to consider?

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Further information

Community Energy England (CEE) was established in 2014 to provide a voice for the community energy sector, primarily in England. Membership totals over 320 organisations. The majority of the members are community energy organisations, but membership extends across a wide range of organisations that work with and support the community energy sector.
www.communityenergyengland.org